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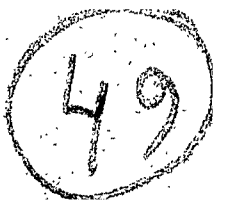

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OFFICIAL DOCUMENTS

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EXCHANGE OF COMMUNICATIONS BETWEEN THE PRESIDENT OF THE UNITED STATES AND THE PRESIDENT OF THE ALL UNION CENTRAL EXECUTIVE COMMITTEE[1]

President Roosevelt to Mr. Kalinin

THE WHITE HOUSE
Washington, *October 10, 1933*

My dear Mr. PRESIDENT:

Since the beginning of my administration, I have contemplated the desirability of an effort to end the present abnormal relations between the hundred and twenty-five million people of the United States and the hundred and sixty million people of Russia.

It is most regrettable that these great peoples, between whom a happy tradition of friendship existed for more than a century to their mutual advantage, should now be without a practical method of communicating directly with each other.

The difficulties that have created this anomalous situation are serious but not, in my opinion, insoluble; and difficulties between great nations can be removed only by frank, friendly conversations. If you are of similar mind, I should be glad to receive any representatives you may designate to explore with me personally all questions outstanding between our countries.

Participation in such a discussion would, of course, not commit either nation to any future course of action, but would indicate a sincere desire to reach a satisfactory solution of the problems involved. It is my hope that such conversations might result in good to the people of both our countries.

I am, my dear Mr. President,

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Mr. MIKHAIL KALININ,
President of the All Union Central Executive Committee,
Moscow.

Mr. Kalinin to President Roosevelt

Moscow, *October 17, 1933*

My dear Mr. PRESIDENT:

I have received your message of October tenth.

I have always considered most abnormal and regrettable a situation wherein, during the past sixteen years, two great republics—The United States of America and the Union of Soviet Socialist Republics—have lacked the usual methods of communication and have been deprived of the benefits which such

[1] Press release from the White House, Oct. 20, 1933.

communication could give. I am glad to note that you also reached the same conclusion.

There is no doubt that difficulties, present or arising, between two countries, can be solved only when direct relations exist between them; and that, on the other hand, they have no chance for solution in the absence of such relations. I shall take the liberty further to express the opinion that the abnormal situation, to which you correctly refer in your message, has an unfavorable effect not only on the interests of the two states concerned, but also on the general international situation, increasing the element of disquiet, complicating the process of consolidating world peace and encouraging forces tending to disturb that peace.

In accordance with the above, I gladly accept your proposal to send to the United States a representative of the Soviet Government to discuss with you the questions of interest to our countries. The Soviet Government will be represented by Mr. M. M. Litvinov, People's Commissar for Foreign Affairs, who will come to Washington at a time to be mutually agreed upon.

I am, my dear Mr. President,

Very sincerely yours,

MIKHAIL KALININ

Mr. FRANKLIN D. ROOSEVELT,
President of the United States of America,
Washington.

EXCHANGE OF COMMUNICATIONS BETWEEN THE PRESIDENT OF THE UNITED STATES AND MAXIM M. LITVINOV PEOPLE'S COMMISSAR FOR FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS[1]

President Roosevelt to Mr. Litvinoff

THE WHITE HOUSE
Washington, *November 16, 1933*

My dear Mr. LITVINOV:

I am very happy to inform you that as a result of our conversations the Government of the United States has decided to establish normal diplomatic relations with the Government of the Union of Soviet Socialist Republics and to exchange ambassadors.

I trust that the relations now established between our peoples may forever remain normal and friendly, and that our nations henceforth may coöperate for their mutual benefit and for the preservation of the peace of the world.

I am, my dear Mr. Litvinov,

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Mr. MAXIM M. LITVINOV,
People's Commissar for Foreign Affairs
Union of Soviet Socialist Republics.

[1] Press release from the White House.

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

I am very happy to inform you that the Government of the Union of Soviet Socialist Republics is glad to establish normal diplomatic relations with the Government of the United States and to exchange ambassadors.

I, too, share the hope that the relations now established between our peoples may forever remain normal and friendly, and that our nations henceforth may coöperate for their mutual benefit and for the preservation of the peace of the world.

I am, my dear Mr. President,

Very sincerely yours,

MAXIM LITVINOFF
People's Commissar for Foreign Affairs,
Union of Soviet Socialist Republics

Mr. FRANKLIN D. ROOSEVELT,
President of the United States of America,
The White House.

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

I have the honor to inform you that coincident with the establishment of diplomatic relations between our two governments it will be the fixed policy of the Government of the Union of Soviet Socialist Republics:

1. To respect scrupulously the indisputable right of the United States to order its own life within its own jurisdiction in its own way and to refrain from interfering in any manner in the internal affairs of the United States, its territories or possessions.

2. To refrain, and to restrain all persons in government service and all organizations of the government or under its direct or indirect control, including organizations in receipt of any financial assistance from it, from any act overt or covert liable in any way whatsoever to injure the tranquillity, prosperity, order, or security of the whole or any part of the United States, its territories or possessions, and, in particular, from any act tending to incite or encourage armed intervention, or any agitation or propaganda having as an aim, the violation of the territorial integrity of the United States, its territories or possessions, or the bringing about by force of a change in the political or social order of the whole or any part of the United States, its territories or possessions.

3. Not to permit the formation or residence on its territory of any organization or group—and to prevent the activity on its territory of any organization or group, or of representatives or officials of any organization or group—which makes claim to be the government of, or makes attempt upon the territorial integrity of, the United States, its territories or possessions; not to form, subsidize, support or permit on its territory military organizations or groups hav-

ing the aim of armed struggle against the United States, its territories or possessions, and to prevent any recruiting on behalf of such organizations and groups.

4. Not to permit the formation or residence on its territory of any organization or group—and to prevent the activity on its territory of any organization or group, or of representatives or officials of any organization or group—which has as an aim the overthrow or the preparation for the overthrow of, or the bringing about by force of a change in the political or social order of the whole or any part of the United States, its territories or possessions.

I am, etc.,

MAXIM LITVINOFF

President Roosevelt to Mr. Litvinoff

THE WHITE HOUSE
Washington, *November 16, 1933*

My dear Mr. LITVINOFF:

I am glad to have received the assurance expressed in your note to me of this date that it will be the fixed policy of the Government of the Union of Soviet Socialist Republics:

[Here follow, *ipsissimis verbis*, the four numbered paragraphs of Mr. Litvinoff's letter preceding.]

It will be the fixed policy of the Executive of the United States within the limits of the powers conferred by the Constitution and the laws of the United States to adhere reciprocally to the engagements above expressed.

I am, etc.,

FRANKLIN D. ROOSEVELT

President Roosevelt to Mr. Litvinoff

THE WHITE HOUSE
Washington, *November 16, 1933*

My dear Mr. LITVINOV:

As I have told you in our recent conversations, it is my expectation that after the establishment of normal relations between our two countries many Americans will wish to reside temporarily or permanently within the territory of the Union of Soviet Socialist Republics and I am deeply concerned that they should enjoy in all respects the same freedom of conscience and religious liberty which they enjoy at home.

As you well know, the Government of the United States, since the foundation of the Republic, has always striven to protect its nationals, at home and abroad, in the free exercise of liberty of conscience and religious worship, and from all disability or persecution on account of their religious faith or worship. And I need scarcely point out that the rights enumerated below are those enjoyed in the United States by all citizens and foreign nationals and by American nationals in all the major countries of the world.

The Government of the United States, therefore, will expect that nationals of the United States of America within the territory of the Union of Soviet Socialist Republics will be allowed to conduct without annoyance or molestation of any kind religious services and rites of a ceremonial nature, including baptismal, confirmation, communion, marriage and burial rites, in the English language, or in any other language which is customarily used in the practice of the religious faith to which they belong, in churches, houses, or other buildings appropriate for such service, which they will be given the right and opportunity to lease, erect or maintain in convenient situations.

We will expect that nationals of the United States will have the right to collect from their co-religionists and to receive from abroad voluntary offerings for religious purposes; that they will be entitled without restriction to impart religious instruction to their children, either singly or in groups, or to have such instruction imparted by persons whom they may employ for such purpose; that they will be given and protected in the right to bury their dead according to their religious customs in suitable and convenient places established for that purpose, and given the right and opportunity to lease, lay out, occupy and maintain such burial grounds subject to reasonable sanitary laws and regulations.

We will expect that religious groups or congregations composed of nationals of the United States of America in the territory of the Union of Soviet Socialist Republics will be given the right to have their spiritual needs ministered to by clergymen, priests, rabbis or other ecclesiastical functionaries who are nationals of the United States of America, and that such clergymen, priests, rabbis or other ecclesiastical functionaries will be protected from all disability or persecution and will not be denied entry into the territory of the Soviet Union because of their ecclesiastical status.

I am, etc.,

FRANKLIN D. ROOSEVELT

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

In reply to your letter of November 16, 1933, I have the honor to inform you that the Government of the Union of Soviet Socialist Republics as a fixed policy accords the nationals of the United States within the territory of the Union of Soviet Socialist Republics the following rights referred to by you:

1. The right to "free exercise of liberty of conscience and religious worship" and protection "from all disability or persecution on account of their religious faith or worship."

This right is supported by the following laws and regulations existing in the various republics of the Union:

> Every person may profess any religion or none. All restrictions of rights connected with the profession of any belief whatsoever, or with

the non-profession of any belief, are annulled. (Decree of Jan. 23, 1918, Art. 3.)

Within the confines of the Soviet Union it is prohibited to issue any local laws or regulations restricting or limiting freedom of conscience, or establishing privileges or preferential rights of any kind based upon the religious profession of any person. (Decree of Jan. 23, 1918, Art. 2.)

2. The right to "conduct without annoyance or molestation of any kind religious services and rites of a ceremonial nature."

This right is supported by the following laws:

A free performance of religious rites is guaranteed as long as it does not interfere with public order and is not accompanied by interference with the rights of citizens of the Soviet Union. Local authorities possess the right in such cases to adopt all necessary measures to preserve public order and safety. (Decree of Jan 23 1918, Art. 5.)

Interference with the performance of religious rites, in so far as they do not endanger public order and are not accompanied by infringements on the rights of others is punishable by compulsory labor for a period up to six months. (Criminal Code, Art. 127.)

3. "The right and opportunity to lease, erect or maintain in convenient situations" churches, houses or other buildings appropriate for religious purposes.

This right is supported by the following laws and regulations:

Believers belonging to a religious society with the object of making provision for their requirements in the matter of religions may lease under contract, free of charge, from the Sub-District or District Executive Committee or from the Town Soviet, special buildings for the purpose of worship and objects intended exclusively for the purposes of their cult. (Decree of April 8, 1929 Art. 10.)

Furthermore, believers who have formed a religious society or a group of believers may use for religious meetings other buildings which have been placed at their disposal on lease by private persons or by local Soviets and Executive Committees. All rules established for houses of worship are applicable to these buildings. Contracts for the use of such buildings shall be concluded by individual believers who will be held responsible for their execution. In addition, these buildings must comply with the sanitary and technical building regulations. (Decree of April 8, 1929, Art. 10.)

The place of worship and religious property shall be handed over for the use of believers forming a religious society under a contract concluded in the name of the competent District Executive Committee or Town Soviet by the competent administrative department or branch, or directly by the Sub-District Executive Committee. (Decree of April 8, 1929, Art. 15.)

The construction of new places of worship may take place at the desire of religious societies provided that the usual technical building regulations and the special regulations laid down by the People's Commissariat for Internal Affairs are observed. (Decree of April 8, 1929, Art. 45.)

4. "The right to collect from their co-religionists . . . voluntary offerings for religious purposes."

This right is supported by the following law:

> Members of groups of believers and religious societies may raise subscriptions among themselves and collect voluntary offerings, both in the place of worship itself and outside it, but only amongst the members of the religious association concerned and only for purposes connected with the upkeep of the place of worship and the religious property, for the engagement of ministers of religion and for the expenses of their executive body. Any form of forced contribution in aid of religious associations is punishable under the Criminal Code. (Decree of April 8, 1929, Art. 54.)

5. Right to "impart religious instruction to their children either singly or in groups or to have such instruction imparted by persons whom they may employ for such purpose."

This right is supported by the following law:

> The school is separated from the church. Instruction in religious doctrines is not permitted in any governmental and common schools, nor in private teaching institutions where general subjects are taught. Persons may give or receive religious instruction in a private manner. (Decree of Jan. 23, 1918, Art. 9.)

Furthermore, the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to freedom of conscience and the free exercise of religion which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. In this connection, I have the honor to call to your attention Article 9 of the treaty between Germany and the Union of Soviet Socialist Republics, signed at Moscow October 12, 1925, which reads as follows:

> Nationals of each of the contracting parties . . . shall be entitled to hold religious services in churches, houses or other buildings, rented, according to the laws of the country, in their national language or in any other language which is customary in their religion. They shall be entitled to bury their dead in accordance with their religious practice in burial-grounds established and maintained by them with the approval of the competent authorities, so long as they comply with the police regulations of the other party in respect of buildings and public health.

Furthermore, I desire to state that the rights specified in the above paragraphs will be granted to American nationals immediately upon the establishment of relations between our two countries.

Finally, I have the honor to inform you that the Government of the Union of Soviet Socialist Republics, while reserving to itself the right of refusing visas

to Americans desiring to enter the Union of Soviet Socialist Republics on personal grounds, does not intend to base such refusals on the fact of such persons having an ecclesiastical status.

I am, etc.,

MAXIM LITVINOFF

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

Following our conversations I have the honor to inform you that the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to legal protection which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. Furthermore, I desire to state that such rights will be granted to American nationals immediately upon the establishment of relations between our two countries.

In this connection I have the honor to call to your attention Article 11 and the Protocol to Article 11, of the Agreement Concerning Conditions of Residence and Business and Legal Protection in General concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

ARTICLE 11

Each of the contracting parties undertakes to adopt the necessary measures to inform the consul of the other party as soon as possible whenever a national of the country which he represents is arrested in his district.

The same procedure shall apply if a prisoner is transferred from one place of detention to another.

FINAL PROTOCOL

Ad Article 11.

1. The consul shall be notified either by a communication from the person arrested or by the authorities themselves direct. Such communications shall be made within a period not exceeding seven times twenty-four hours, and in large towns, including capitals of districts, within a period not exceeding three times twenty-four hours.

2. In places of detention of all kinds requests made by consular representatives to visit nationals of their country under arrest, or to have them visited by their representatives, shall be granted without delay. The consular representative shall not be entitled to require officials of the courts or prisons to withdraw during his interview with the person under arrest.

I am, etc.,

MAXIM LITVINOFF

President Roosevelt to Mr. Litvinoff

THE WHITE HOUSE
Washington, *November 16, 1933*

My dear Mr. LITVINOFF:

I thank you for your letter of November 16, 1933, informing me that the Soviet Government is prepared to grant to nationals of the United States rights with reference to legal protection not less favorable than those enjoyed in the Union of the Soviet Socialist Republics by nationals of the nation most favored in this respect. I have noted the provisions of the treaty and protocol concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

I am glad that nationals of the United States will enjoy the protection afforded by these instruments immediately upon the establishment of relations between our countries and I am fully prepared to negotiate a consular convention covering these subjects as soon as practicable. Let me add that American diplomatic and consular officers in the Soviet Union will be zealous in guarding the rights of American nationals, particularly the right to a fair, public and speedy trial and the right to be represented by counsel of their choice. We shall expect that the nearest American diplomatic or consular officer shall be notified immediately of any arrest or detention of an American national, and that he shall promptly be afforded the opportunity to communicate and converse with such national.

I am, etc.,

FRANKLIN D. ROOSEVELT

Memorandum

In reply to a question of the President in regard to prosecutions for economic espionage, Mr. Litvinov gave the following explanation:

> The widespread opinion that the dissemination of economic information from the Union of Soviet Socialist Republics is allowed only in so far as this information has been published in newspapers or magazines, is erroneous. The right to obtain economic information is limited in the Union of Soviet Socialist Republics, as in other countries, only in the case of business and production secrets and in the case of the employment of forbidden methods (bribery, theft, fraud, etc.) to obtain such information. The category of business and production secrets naturally includes the official economic plans, in so far as they have not been made public, but not individual reports concerning the production conditions and the general conditions of individual enterprises.
>
> The Union of Soviet Socialist Republics has also no reason to complicate or hinder the critical examination of its economic organization. It naturally follows from this that every one has the right to talk about economic matters or to receive information about such matters in the Union, in so far as the information for which he has asked or which has been imparted to him is not such as may not, on the basis of special regulations issued by responsible officials or by the appropriate state enter-

prises, be made known to outsiders. (This principle applies primarily to information concerning economic trends and tendencies.)

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

Following our conversations I have the honor to inform you that the Government of the Union of Soviet Socialist Republics agrees that, preparatory to a final settlement of the claims and counter-claims between the Governments of the Union of Soviet Socialist Republics and the United States of America and the claims of their nationals, the Government of the Union of Soviet Socialist Republics will not take any steps to enforce any decisions of courts or initiate any new litigations for the amounts admitted to be due or that may be found to be due it, as the successor of prior governments of Russia, or otherwise, from American nationals, including corporations, companies, partnerships, or associations, and also the claim against the United States of the Russian Volunteer Fleet, now in litigation in the United States Court of Claims, and will not object to such amounts being assigned and does hereby release and assign all such amounts to the Government of the United States, the Government of the Union of Soviet Socialist Republics to be duly notified in each case of any amount realized by the Government of the United States from such release and assignment.

The Government of the Union of Soviet Socialist Republics further agrees, preparatory to the settlement referred to above, not to make any claim with respect to:

(a) judgments rendered or that may be rendered by American courts in so far as they relate to property, or rights, or interests therein, in which the Union of Soviet Socialist Republics or its nationals may have had or may claim to have an interest; or

(b) acts done or settlements made by or with the Government of the United States, or public officials in the United States, or its nationals, relating to property, credits, or obligations of any government of Russia or nationals thereof.

I am, etc.,

MAXIM LITVINOFF

President Roosevelt to Mr. Litvinoff

THE WHITE HOUSE
Washington, *November 16, 1933*

My dear Mr. LITVINOV:

I am happy to acknowledge the receipt of your letter of November 16, 1933, in which you state that:

[Here follow, *ipsissimis verbis*, the agreements as stated in Mr. Litvinoff's letter preceding.]

I am glad to have these undertakings by your government and I shall be pleased to notify your government in each case of any amount realized by the Government of the United States from the release and assignment to it of the amounts admitted to be due, or that may be found to be due, the Government of the Union of Soviet Socialist Republics, and of the amount that may be found to be due on the claim of the Russian Volunteer Fleet.

I am, etc.,

FRANKLIN D. ROOSEVELT

Mr. Litvinoff to President Roosevelt

Washington, *November 16, 1933*

My dear Mr. PRESIDENT:

I have the honor to inform you that, following our conversations and following my examination of certain documents of the years 1918 to 1921 relating to the attitude of the American Government toward the expedition into Siberia, the operations there of foreign military forces and the inviolability of the territory of the Union of Soviet Socialist Republics, the Government of the Union of Soviet Socialist Republics agrees that it will waive any and all claims of whatsoever character arising out of activities of military forces of the United States in Siberia, or assistance to military forces in Siberia subsequent to January 1, 1918, and that such claims shall be regarded as finally settled and disposed of by this agreement.

I am, etc.,

MAXIM LITVINOFF

Joint Statement by the President and Mr. Litvinov

THE WHITE HOUSE
Washington, *November 16, 1933*

In addition to the agreements which we have signed today, there has taken place an exchange of views with regard to methods of settling all outstanding questions of indebtedness and claims that permits us to hope for a speedy and satisfactory solution of these questions which both our governments desire to have out of the way as soon as possible.

Mr. Litvinov will remain in Washington for several days for further discussions.

CORRESPONDENCE EXCHANGED BETWEEN THE DEPARTMENT OF STATE AND THE RUSSIAN FINANCIAL ATTACHÉ[1]

Mr. Ughet to the Department of State

RUSSIAN FINANCIAL ATTACHÉ
17 East 45th Street
New York, *October 21, 1933*

Dear Mr. KELLEY:

The correspondence between the President of the United States and Mr. Kalinin, President of the All Union Central Executive Committee, leads me to believe that conditions may arise in the near future, where no further useful purpose can be served by my continuing to exercise the duties with which I was vested under the exchange of notes between the Russian Ambassador and the Secretary of State of April 28 and 29, 1922.

In consequence of this belief, may I not request that my present status be discontinued at the earliest convenience of the Department of State. As to certain matters of a continuing character requiring further attention, I would respectfully suggest that after the date of the discontinuance of my status they be considered as being temporarily taken under the care of the United States Government.

In terminating my official activities I deem it a paramount duty to express my deep appreciation for the unfailing consideration with which I have been treated at the Department of State. Permit me also to say that if a moral satisfaction has been derived by me during the trying years of my service, it has been due mainly to the cognizance that I have enjoyed the confidence of the Government of the United States.

Very sincerely yours,

S. UGHET
Russian Financial Attaché

Hon. ROBERT F. KELLEY,
Chief, Division of Eastern European Affairs,
Department of State,
Washington, D. C.

Mr. Phillips to Mr Ughet

DEPARTMENT OF STATE
November 16, 1933

My dear Mr. UGHET:

I desire to refer to your letter of October 21, 1933, in which you expressed the belief that conditions would arise in the near future when no further useful

[1] State Department press release, Nov. 17, 1933.

purpose would be served by your continuing to exercise the duties with which you were charged under the exchange of notes between the Russian Ambassador and the Secretary of State of April 28–29, 1922,[1] and requested that your present status be discontinued at the earliest convenience of the Department of State.

In view of the recognition of the Union of Soviet Socialist Republics by the Government of the United States, I have to inform you that upon this date the Government of the United States ceases to recognize you as Russian Financial Attaché.

The Department is deeply appreciative of the able manner in which you have discharged the duties which devolved upon you under the exchange of notes referred to above and of the friendly spirit with which you have for so many years coöperated with this Government.

I should like to take the occasion to extend to you personally my cordial good wishes for your future happiness and success.

Very sincerely yours,

WILLIAM PHILLIPS
Acting Secretary of State

Mr. SERGE UGHET,
17 East Forty-fifth Street,
New York City.

TELEGRAMS ADDRESSED BY THE ACTING SECRETARY OF STATE TO RUSSIAN CONSULAR OFFICERS IN THE UNITED STATES[2]

Telegram

DEPARTMENT OF STATE
November 17, 1933

Mr. JOSEPH A. CONRY,
Russian Consul,
Boston, Massachusetts.

In view of the recognition of the Union of Soviet Socialist Republics by the Government of the United States, you are informed that the exequatur issued on September 20, 1912, recognizing you as Consul of Russia at Boston, is revoked, effective as of November 16, 1933, and that consequently your status as Russian Consul is considered terminated as of that date.

WILLIAM PHILLIPS
Acting Secretary

[1] Printed *infra*, pp. 15.
[2] State Department press release, Nov. 17, 1933.

Telegram

DEPARTMENT OF STATE
November 17, 1933

Mr. ANTOINE VOLKOFF,
Russian Consul General,
Chicago, Illinois.

In view of the recognition of the Union of Soviet Socialist Republics by the Government of the United States, you are informed that the exequatur issued on June 24, 1914, recognizing you as Consul General of Russia at Chicago, is revoked, effective as of November 16, 1933, and that consequently your status as Russian Consul General is considered terminated as of that date.

WILLIAM PHILLIPS
Acting Secretary

Telegram

DEPARTMENT OF STATE
November 17, 1933

Mr. NIKOLAI BOGOYAVLENSKY,
Russian Consul General,
Seattle, Washington.

In view of the recognition of the Union of Soviet Socialist Republics by the Government of the United States, you are informed that the exequatur issued on May 26, 1915, recognizing you as Consul General of Russia at Seattle, is revoked, effective as of November 16, 1933 and that consequently your status as Russian Consul General is considered terminated as of that date.

WILLIAM PHILLIPS
Acting Secretary

CIRCULAR TO ALL AMERICAN DIPLOMATIC MISSIONS SENT BY MR. WILLIAM PHILLIPS, THE ACTING SECRETARY OF STATE[1]

November 17, 1933

Following an exchange of conversations between the President and the Commissar for Foreign Affairs of the Union of Soviet Socialist Republics, covering outstanding questions in the relations between the United States and the Soviet Union and the arrival at an understanding with respect to methods of settling the question of debts and claims, the President communicated to Mr. Litvinov in a note dated November 16, 1933, the decision of the Government of the United States to establish diplomatic relations with the Soviet Union.

In view of the recognition thus accorded by the Government of the United States to the Union of Soviet Socialist Republics, you should enter into cordial

[1] State Department press release, Nov. 18, 1933.

official and social relations with your Soviet colleague in accordance with the established practice of the post at which you are stationed.

Soviet passports should be treated henceforth as passports of other recognized governments.

Inform Consuls.

CORRESPONDENCE BETWEEN THE SECRETARY OF STATE AND THE RUSSIAN AMBASSADOR, APRIL 28–29, 1922[1]

The Ambassador of Russia to the Secretary of State

RUSSIAN EMBASSY
Washington, *April 28, 1922*

My dear Mr. SECRETARY:

In view of recent events I think it advisable to bring forward once more the subject of my position as the representative of Russia in the United States.

Received at Washington in July, 1917, as ambassador of the first democratic government of Russia, I have remained at my post up to the present time in order to serve and protect Russian national interests and to facilitate, in cooperation with the Treasury and State Departments, the liquidation and final settlement of a large volume of commercial business for which the Government of Russia stood obligated, partly through my agency, to American business concerns. I am happy to believe that American as well as Russian interests have been served thereby.

The work of liquidation has now been brought to a practical close. At the same time my status as ambassador has been made the subject of renewed discussion. I am led to question whether my continuance, as Ambassador of Russia, will longer serve the best interests of my country and the convenience of the United States Government. I am prepared if the United States Government so desires, to retire and terminate my official functions.

On account of personal matters I have planned to sail from this country within the near future. It would be necessary to wind up my affairs and to arrange for the custody of the Russian property for which I am responsible. This work could be completed about the 30th of June, which date could be regarded as the date on which my retirement from official duties would take effect.

In the event of my retirement I suggested that Mr. Serge Ughet, Financial Attaché of the Embassy, be recognized as custodian of the properties in question and as the agent through whom pending business can be transacted and terminated.

In assuring you of my deep appreciation of the personal consideration I have always enjoyed at the hands of the State Department, and other departments of the American Government, I desire to express also my gratitude for

[1] State Department press release, June 4, 1922.

the good will and consideration with which the United States has treated my country. America was first to welcome the advent of democracy in Russia and to recognize the Provisional Government. Since then and throughout Russia's great trial the United States has evidenced deep and sympathetic understanding of Russia's process of transformation and has conserved unbroken faith in the regeneration and happy future of the Russian people. The United States has lent friendly effort in preserving for the Russian people the integrity of their national patrimony and in safeguarding their economic freedom. Finally America has generously come to the relief of suffering and saved millions of Russians from starvation. For this assistance and support in the hour of distress Russia will conserve eternal gratitude.

I avail myself of the opportunity to express to you, my dear Mr. Secretary, the renewed assurances of my high esteem.

B. BAKHMETEFF

The Secretary of State to the Ambassador of Russia

DEPARTMENT OF STATE
Washington, *April 29, 1922*

My dear Mr. AMBASSADOR:

I have received your letter of April 28, 1922, in which you bring forward the question of your status as ambassador in the United States and suggest that it may be appropriate to have this terminate in the near future, inasmuch as the liquidation and final settlement of the business of the Russian Government in the United States for which you were responsible is now practically completed, and as your continuance as ambassador under the existing circumstances may give rise to misunderstanding.

I believe that a change in the present situation is desirable and I am glad to be able to concur in your suggestions as to how this may best be brought about.

You will continue to be recognized as ambassador until June 30 next. After this date the custody of the property of the Russian Government in this country for which you have been responsible will be considered to vest in Mr. Serge Ughet, the Financial Attaché of the Embassy. Mr. Ughet's diplomatic status with this government will not be altered by the termination of your duties and he will continue to enjoy the usual diplomatic privileges and immunities.

With assurance of my high esteem and appreciating the friendly spirit in which you have dealt with all matters of interest to this government, I am, my dear Mr. Bakhmeteff,

Very sincerely yours,

CHARLES E. HUGHES

LETTERS EXCHANGED BETWEEN THE SECRETARY OF STATE AND THE SECRETARY OF THE TREASURY, MAY 23/JUNE 2, 1922[1]

The Secretary of State to the Secretary of the Treasury

DEPARTMENT OF STATE
Washington, *May 23, 1922*

My dear Mr. SECRETARY:

I desire to refer to the arrangements made toward the close of 1917 for the liquidation of the financial business of Russia in this country, following the fall of the last recognized Russian Government.

It appears from the files of the State Department, and from published records, that the extraordinarily difficult task of dealing with the Russian financial situation in this country under the circumstances indicated was undertaken jointly by the State and Treasury Departments in coöperation with Mr. Boris Bakhmeteff, representing the last recognized Russian Government, and that contracts then outstanding with American manufacturers to the value of more than $102,000,000 were successfully liquidated with funds of the Russian Government amounting to much less than that sum. It is the understanding of the State Department that this process of liquidation has now been brought to a practical conclusion, and that such business as remains is in process of orderly settlement.

Having regard to recent public discussion of the subject, may I ask that you confirm these facts and furnish any additional information from the records of the Treasury Department which you may consider helpful to a public understanding of the matter?

I am, etc.,

CHARLES E. HUGHES

The Secretary of the Treasury to the Secretary of State

THE SECRETARY OF THE TREASURY
Washington, *June 2, 1922*

My dear Mr. SECRETARY:

I received your letter of May 23, 1922, regarding the liquidation of the Russian Government's financial obligations in this country after the fall of the last recognized Russian Government.

The facts set forth in your letter are in accord with the information possessed by the Treasury on the subject, and I am glad to avail myself of your suggestion to furnish any additional information from the Treasury's records that may be considered helpful to a public understanding of the matter.

It appears that under the authority of the Liberty Bond Acts the Secretary of the Treasury, with the approval of the President, made certain loans to the Provisional Government of Russia for the purpose of more effectually

[1] State Department press release, June 4, 1922.

providing for the national security and defense and prosecuting the war. The net amount of the loans so made is $187,729,750. Although a credit of $100,000,000 was established by the Treasury in favor of the Russian Government on May 16, 1917, the first loan to that government was not actually made until July 6, 1917, and was in the amount of $35,000,000. No loans were made by the Treasury to the Russian Government after the fall of the Provisional Government early in November, 1917, with the exception of an advance of $1,329,750 on November 15, 1917, the proceeds of which were simultaneously applied by the Russians to the payment of interest to the Government of the United States.

The funds advanced by the Treasury in making the above loans were used solely for the purchase of obligations of the Russian Government in accordance with the Liberty Bond Acts, in the same manner as with other foreign governments, and the funds so paid for these obligations became the funds of the Russian Government. All of the obligations thus purchased are signed in the name of the Provisional Government of Russia by Mr. Boris Bakhmeteff who was the representative of that government designated to the Treasury by the Department of State as being authorized to sign them in the name and on behalf of that government.

In connection with the loans so made to the Russian Government, the latter rendered reports to the Treasury of its expenditures. These reports cover the period from April 6, 1917, the date of the United States Government's entry into the war, to March 4, 1921 and show total expenditures for that period of about $231,000,000. The principal items of such expenditures appear to have been munitions, including remounts; exchange and cotton purchases, and other supplies. It would seem clear that only a comparatively small portion of the total expenditures of the Russian Government in this country during the period referred to was made from funds advanced by the United States Treasury, in view of the fact that it appears from the reports filed by the Russian representatives with this department that of the $187,729,750 so loaned about $125,000,000 was transferred by the Russian Ambassador to the account of the Russian Ministry of Finance at Petrograd and only the balance of about $62,000,000 was retained by the Russian Ambassador for expenditure in this country.

According to information shown by the Treasury records, the Russian Government's financial situation in this country at the time of the fall of the Provisional Government in November, 1917 was, in a general way, as follows:

Its bank balances then on hand amounted to about $56,000,000. The Russian Ambassador has estimated that about $50,000,000 thereof represented the balance remaining from this government's loans to Russia, and that the rest of such funds consisted of moneys derived from other sources, such as British credits and loans made by private bankers in this country. At this time the Russian Government also had a large amount of property in the United States, consisting mainly of war supplies. Apart from its indebtedness to the United

States Government on account of the loans above mentioned, the Russian Government's financial obligations in the United States arose principally out of contracts for supplies and certain private loans issued in this country. The contractual liabilities amounted to about $102,000,000 and the total principal amount of such private loans was $86,000,000. In these circumstances, the Department of State and the Treasury considered it advisable to enter into arrangements with the Russian Ambassador with a view to effecting such an application of the Russian Government's available assets in this country that the interests of the American manufacturers and contractors and of the United States Government would be protected. In accordance with these arrangements, the Russian Ambassador deposited about $47,000,000 of the $56,000,000 cash above referred to with the National City Bank of New York in a so-called liquidation account, subject to his disposition. This money was to be devoted to the general liquidation of Russian obligations in this country. The balance of approximately $9,000,000 was placed in special accounts with that bank to be used for certain specific purposes. These funds also were subject to the ambassador's disposition. Pursuant to an understanding had with the National City Bank, however, no withdrawals were to be made from the liquidation account without the bank's first notifying the Treasury and ascertaining whether it objected to the particular disbursement proposed.

It further appears that from December 1, 1917, when the liquidation account was opened, to March 4, 1921, when the account was closed, additional deposits were made therein, aggregating a total amount of about $29,000,000. The funds so deposited resulted chiefly from the sale of Russian property in this country and the charter hire from certain Russian ships. This made the total deposits in the liquidation account aggregate about $76,000,000 and the total disbursements from this account for the period in question also amounted to about $76,000,000. From the reports of the Russian representatives, it appears that these disbursements were made for supplies, transportation, storage, inspection, interest on loans made by the United States Government and on private loans floated in this country, salaries and upkeep of the Russian Embassy and consulates and other Russian institutions in the United States, and various miscellaneous purposes. It is further shown by such reports that payments on contracts for supplies amounted to approximately $36,000,000 and that about $10,000,000 was expended for interest on said loans. It will be noted that these two items alone are greatly in excess of the portion of the liquidation funds estimated by the Russian Ambassador to have been derived from American Government loans.

From the pertinent records, it appears that the settlement of the contracts outstanding in this country at the time of the fall of the Provisional Government was effected by the Russian Ambassador in coöperation with representatives of the Department of State, of the Treasury, and of the War Industries Board, with the result that the outstanding contracts were settled by payment, cancellation, and other means, without loss to American contractors. This

settlement, I should say, may well be regarded as a noteworthy achievement in view of the extent of the liabilities involved in such contracts and the comparatively limited amount of cash available here to the Russian Government for use in respect thereto.

On February 14, 1921, the Treasury was informed by the Russian representatives that the liquidation of the outstanding liabilities of the Provisional Government of Russia in regard to contracts placed in the United States had been for the most part completed, and an arrangement was thereupon entered into whereby the liquidation account as such was closed out March 4, 1921, and the balance therein, amounting to $70,426.34, paid to the Treasurer of the United States and applied on account of interest due and payable on Russian obligations held by the United States. It was agreed by the Russian representatives, however, that sums which might still accrue to them from the remaining business of liquidation which would, prior to the closing out of the liquidation account, have been payable into that account, should likewise be applied on interest due on said obligation. Such sums to the aggregate amount of $337,766.73, have actually been paid since March 4, 1921 by the Russian representatives to the Treasury of the United States and applied on interest due on the Russian obligations. It is the understanding of the Treasury that the funds so paid were realized chiefly from further sales of the Russian Government's property.

As you are aware, all of the information above given with respect to loans made by this government to Russia, and the greater part of the data set forth in regard to the liquidation of the Russian Government's financial obligations in this country after the fall of the Provisional Government, have heretofore been made public in various reports and other documents. Attention is particularly called to the Annual Report of the Secretary of the Treasury for the fiscal year 1920; the testimony of Mr. Polk, then the Under Secretary of State, and of Mr. Leffingwell, a former Assistant Secretary of the Treasury, before the House Committee on Expenditures in the State Department on June 26 to September 8, 1919, in connection with House Resolution 132; the correspondence between the Russian Ambassador and the Department of State read before the subcommittee of the Senate Committee on Foreign Relations during the second session of the 66th Congress at the hearing on Senate Resolution 263 and printed on pages 501–504 of Senate Report 526, dated April 14, 1920; the hearings on House Resolution 635 before the Committee on Foreign Affairs of the House, 66th Congress, third session; Senate Document No. 86, 67th Congress, second session, entitled 'Loans to Foreign Governments"; the testimony of former Secretary of the Treasury Houston and former Assistant Secretary of the Treasury Kelley before the Senate Committee on the Judiciary on February 2 to February 7, 1921; and the letter dated February 25, 1921, from Secretary Houston in response to Senate Resolution 417, printed in the Congressional Record for February 26, 1921.

In addition to reports showing the Russian Government's expenditures since

the entry of the United States Government into the war, the Russian Embassy has filed with the Treasury Department detailed reports and statements, with explanatory memoranda, in respect to the liquidation by such embassy, after the fall of the Provisional Government, of the Russian Government's obligations in the United States out of that government's assets in this country, and I understand that the Russian representatives have shown every disposition to make all possible information available to the Treasury.

Sincerely yours,

A. W. MELLON
Secretary

Note to the State Department Press Release of June 4, 1922

The Department of State also made it known that, in addition to the liquidation of Russian governmental business in this country described in the foregoing letters, Mr. Bakhmeteff recently, at the request of the State Department, paid out of the Russian funds at his disposal outstanding and overdue drafts on the Secretary of State to the aggregate amount of $590,967.20. These drafts had been drawn by American diplomatic and consular officers in Turkey to cover expenditures connected with the representation by the United States of Russian interests and the aid and protection of Russian citizens in Turkey during the period prior to the entry of the United States into the war in April, 1917.

It was further announced by the Secretary of State that the termination of Mr. Bakhmeteff's duties as Russian Ambassador in this country has no bearing whatsoever upon the question of the recognition of the Soviet régime in Russia, which is an entirely separate matter.

CONVENTION FOR LIMITING THE MANUFACTURE AND REGULATING THE DISTRIBUTION OF NARCOTIC DRUGS [1]

Signed at Geneva, July 13, 1931; entered into force July 9, 1933 [2]

The President of the German Reich; the President of the United States of America; the President of the Argentine Republic; the Federal President of the Austrian Republic; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India; the President of the Republic of Chile; the President of the Republic of Costa Rica; the President of the Republic of Cuba; His Majesty the King of Denmark and Iceland; the President of the Polish Republic, for the Free City of Danzig; the President of the Dominican Republic; His Majesty the King of Egypt; the President of the Provisional Government of the Spanish Republic; His Majesty the Emperor and King of the Kings of Abyssinia; the President of the French Republic; the

[1] U. S. Treaty Series, No. 863.

[2] For ratifications, accessions, and reservations, see *supra*, p. 43.

President of the Hellenic Republic; the President of the Republic of Guatemala; His Majesty the King of Hejaz Nejd and Dependencies; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Republic of Liberia; the President of the Republic of Lithuania; Her Royal Highness the Grand Duchess of Luxemburg; the President of the United States of Mexico; His Serene Highness the Prince of Monaco; the President of the Republic of Panama; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; the President of the Polish Republic; the President of the Portuguese Republic; His Majesty the King of Roumania; I Capitani Reggenti of the Republic of San Marino; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; the President of the Czechoslovak Republic; the President of the Republic of Uruguay; the President of the United States of Venezuela,

Desiring to supplement the provisions of the International Opium Conventions, signed at The Hague on January 23rd, 1912,[3] and at Geneva on February 19th, 1925,[4] by rendering effective by international agreement the limitation of the manufacture of narcotic drugs to the world's legitimate requirements for medical and scientific purposes and by regulating their distribution,

Have resolved to conclude a convention for that purpose and have appointed as their plenipotentiaries:

The President of the German Reich:

M. WERNER FREIHERR VON RHEINBABEN, "Staatssekretär z.D.";

Dr. WALDEMAR KAHLER, Ministerial Counsellor at the Ministry of Interior of the Reich.

The President of the United States of America:

Mr. JOHN K. CALDWELL, of the Department of State;

Mr. HARRY J. ANSLINGER, Commissioner of Narcotics;

Mr. WALTER LEWIS TREADWAY, M.D. F.A.C.P., Assistant Surgeon-General, United States Public Health, Service Chief, Division of Mental Hygiene;

Mr. SANBORN YOUNG, Member of the Senate of the State of California.

The President of the Argentine Republic.

Dr. FERNANDO PEREZ, Ambassador Extraordinary and Plenipotentiary to His Majesty the King of Italy.

The Federal President of the Austrian Republic:

M. EMERICH PFLÜGL, Envoy Extraordinary and Minister Plenipotentiary, Permanent Representative accredited to the League of Nations;

Dr. BRUNO SCHULTZ, Police Director and Conseiller aulique," Member of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs.

His Majesty the King of Belgium:

Dr. F. DE MYTTENAERE, Principal Inspector of Chemistry at Hal.

[3] Printed in this JOURNAL, Supplement, Vol. 6 (1912), p. 177.

[4] *Ibid.*, Vol. 23 (1929), p. 135.

The President of the Republic of Bolivia:

Dr. M. CUELLAR, Member of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs.

The President of the Republic of the United States of Brazil:

M. RAUL DO RIO BRANCO, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations:

Sir MALCOLM DELEVINGNE, K.C.B., Permanent Deputy-Under-Secretary in the Home Office.

For the Dominion of Canada:

Colonel C. H. L. SHARMAN, C.M.G., C.B.E., Chief Narcotic Division, Department of Pensions and National Health;

Dr. WALTER A. RIDDELL, M.A., Ph.D., Dominion of Canada Advisory Officer accredited to the League of Nations.

For India:

Dr. R. P. PARANJPYE, Member of the Council of India.

The President of the Republic of Chile:

M. ENRIQUE GAJARDO, Member of the Permanent Delegation accredited to the League of Nations.

The President of the Republic of Costa Rica:

Dr. VIRIATO FIGUEREDO LORA, Consul at Geneva.

The President of the Republic of Cuba:

M. GUILLERMO DE BLANCK, Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations;

Dr. BENJAMIN PRIMELLES.

His Majesty the King of Denmark and Iceland:

M. GUSTAV RASMUSSEN, Chargé d'Affaires at Berne.

The President of the Polish Republic (for the Free City of Danzig):

M. FRANÇOIS SOKAL, Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

The President of the Dominican Republic:

M. CHARLES ACKERMANN, Consul-General at Geneva.

His Majesty the King of Egypt:

T. W. RUSSELL PASHA, Chief of Police of Cairo and Director of the Central Bureau for Information with regard to Narcotics.

The President of the Provisional Government of the Spanish Republic:

M. JULIO CASARES, Head of Section at the Ministry for Foreign Affairs.

His Majesty the Emperor and King of the Kings of Abyssinia:
Count LAGARDE, Duke of ENTOTTO, Minister Plenipotentiary, Representative accredited to the League of Nations.

The President of the French Republic:
M. GASTON BOURGOIS, Consul of France.

The President of the Hellenic Republic:
M. R. RAPHAËL, Permanent Delegate accredited to the League of Nations.

The President of the Republic of Guatemala:
M. LUIS MARTÍNEZ MONT, Professor of Experimental Psychology in Secondary Schools of State.

His Majesty the King of Hejaz, Nejd and Dependencies:
Cheik HAFIZ WAHBA, Envoy Extraordinary and Minister Plenipotentiary to His Britannic Majesty.

His Majesty the King of Italy:
M. STEFANO CAVAZZONI, Senator, Former Minister of Labour.

His Majesty the Emperor of Japan:
M. SETSUZO SAWADA, Minister Plenipotentiary, Director of the Japanese Bureau accredited to the League of Nations;
M. SHIGEO OHDACHI, Secretary at the Ministry for Home Affairs, Head of the Administrative Section.

The President of the Republic of Liberia:
Dr. ANTOINE SOTTILE, Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

The President of the Republic of Lithuania
Dr. DOVAS ZAUNIUS, Minister for Foreign Affairs.
M. JUOZAS SAKALAUSKAS, Head of Section at the Ministry for Foreign Affairs.

Her Royal Highness the Grand-Duchess of Luxemburg:
M. CHARLES VERMAIRE, Consul at Geneva.

The President of the United States of Mexico:
M. SALVADOR MARTÍNEZ DE ALVA, Permanent Observer accredited to the League of Nations.

His Serene Highness the Prince of Monaco:
M. CONRAD E. HENTSCH, Consul-General at Geneva.

The President of the Republic of Panama:
Dr. ERNESTO HOFFMANN, Consul-General at Geneva.

The President of the Republic of Paraguay:
Dr. RAMÓN V. CABALLERO DE BEDOUT, Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic, Permanent Delegate accredited to the League of Nations

Her Majesty the Queen of the Netherlands:

M. W. G. VAN WETTUM, Government Adviser for International Opium Questions.

His Imperial Majesty the Shah of Persia:

M. A. SEPAHBODY, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, Permanent Delegate accredited to the League of Nations.

The President of the Polish Republic:

M. WITOLD CHODŹKO, Former Minister.

The President of the Portuguese Republic:

Dr. AUGUSTO DE VASCONCELLOS, Minister Plenipotentiary, General Director of the Portuguese Secretariat of the League of Nations;

Dr. ALEXANDRO FERRAZ DE ANDRADE, First Secretary of Legation, Chief of the Portuguese Office accredited to the League of Nations.

His Majesty the King of Roumania:

M. CONSTANTIN ANTONIADE, Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations.

I Capitani Reggenti of the Republic of San Marino:

Professor C. E. FERRI, Advocate.

His Majesty the King of Siam:

His Serene Highness Prince DAMRAS, Envoy Extraordinary and Minister Plenipotentiary to His Britannic Majesty, Permanent Representative accredited to the League of Nations.

His Majesty the King of Sweden:

M. K. I. WESTMAN, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

The Swiss Federal Council:

M. PAUL DINICHERT, Minister Plenipotentiary, Chief of the Division for Foreign Affairs of the Federal Political Department;

Dr. HENRI CARRIÈRE, Director of the Federal Service of Public Health.

The President of the Czechoslovak Republic:

M. ZDENĚK FIERLINGER, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, Permanent Delegate accredited to the League of Nations.

The President of the Republic of Uruguay:

Dr. ALFREDO DE CASTRO, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

The President of the United States of Venezuela:

Dr. L. G. CHACÍN-ITRIAGO, Chargé d'Affaires at Berne, Member of the Medical Academy of Caracas.

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

CHAPTER I.—DEFINITIONS

Article 1

Except where otherwise expressly indicated, the following definitions shall apply throughout this convention:

1. The term "Geneva Convention" shall denote the International Opium Convention signed at Geneva on February 19th, 1925.

2. The term "the drugs" shall denote the following drugs whether partly manufactured or completely refined:

Group I.

Sub-Group (a):

(i) Morphine and its salts, including preparations made directly from raw or medicinal opium and containing more than 20 per cent of morphine;

(ii) Diacetylmorphine and the other esters of morphine and their salts;

(iii) Cocaine and its salts, including preparations made direct from the coca leaf and containing more than 0.1 per cent of cocaine, all the esters of ecgonine and their salts;

(iv) Dihydrohydrooxycodeinone (of which the substance registered under the name of eucodal is a salt) dihydrocodeinone (of which the substance registered under the name of dicodide is a salt), dihydromorphinone (of which the substance registered under the name of dilaudide is a salt), acetyldihydrocodeinone or acetyldemethylodihydrothebaine (of which the substance registered under the name of acedicone is a salt); dihydromorphine (of which the substance registered under the name of paramorfan is a salt), their esters and the salts of any of these substances and of their esters, morphine-N-oxide registered trade name genomorphine), also the morphine-N-oxide derivatives, and the other pentavalent nitrogen morphine derivatives.

Sub-Group (b):

Ecgonine, thebaine and their salts benzylmorphine and the other ethers of morphine and their salts, except methylmorphine (codeine), ethylmorphine and their salts.

Sub-Group (b):

Methylmorphine (codeine), ethylmorphine and their salts.

The substances mentioned in this paragraph shall be considered as drugs even if produced by a synthetic process.

The terms "Group I" and "Group II" shall respectively denote Groups I and II of this paragraph.

3. "Raw opium" means the spontaneously-coagulated juice obtained from the capsules of the *Papaver somniferum L.*, which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine.

"Medical opium" means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the

national pharmacopœia, whether in powder form or granulated or otherwise or mixed with neutral materials.

"Morphine" means the principal alkaloid of opium having the chemical formula $C_{17}H_{19}O_3N$.

"Diacetylmorphine" means diacetylmorphine (diamorphine, heroin) having the formula $C_{21}H_{23}O_5N$ ($C_{17}H_{17}(C_2H_3O_2)O_3N$).

"Coca leaf" means the leaf of the *Erythroxylon Coca* Lamarck and the *Erythroxylon novogranatense* (Morris) *Hieronymus* and their varieties, belonging to the family of Erythroxylaceæ and the leaf of other species of this genus from which it may be found possible to extract cocaine, either directly or by chemical transformation.

"Cocaine" means methyl-benzoyl laevo-ecgonine ($[\alpha]$ D 20° = — 16°4) in 20 per cent solution of chloroform of which the formula is $C_{17}H_{21}O_4N$.

"Ecgonine" means laevo-ecgonine ($[\alpha]$ D 20° = — 45°6 in 5 per cent solution of water), of which the formula is $C_9H_{15}O_3N.H_2O$, and all the derivatives of laevo-ecgonine which might serve industrially for its recovery.

The following drugs are defined by their chemical formulæ as set out below:

Dihydrohydrooxycodeinone	$C_{18}H_{21}O_4N$	
Dihydrocodeinone	$C_{18}H_{21}O_3N$	
Dihydromorphinone	$C_{17}H_{19}O_3N$	
Acetyldihydrocodeinone or Acetyldemethylodihydrothebaine	$C_{20}H_{23}O_4N$	($C_{18}H_{20}(C_2H_3O)O_3N$)
Dihydromorphine	$C_{17}H_{21}O_3N$	
Morphine-N-Oxide	$C_{17}H_{19}O_4N$	
Thebaine	$C_{19}H_{21}O_3N$	
Methylmorphine (codeine)	$C_{18}H_{21}O_3N$	($C_{17}H_{18}(CH_3O)O_2N$)
Ethylmorphine	$C_{19}H_{23}O_3N$	($C_{17}H_{18}(C_2H_5O)O_2N$)
Benzylmorphine	$C_{24}H_{25}O_3N$	($C_{17}H_{18}(C_7H_7O)O_2N$)

4. The term "manufacture" shall include any process of refining.

The term "conversion" shall denote the transformation of a drug by a chemical process, with the exception of the transformation of alkaloids into their salts.

When one of the drugs is converted into another of the drugs this operation shall be considered as conversion in relation to the first-mentioned drug and as manufacture in relation to the other.

The term "estimates" shall denote estimates furnished in accordance with Articles 2 to 5 of this convention and, unless the context otherwise requires, shall include supplementary estimates.

The term "reserve stocks" in relation to any of the drugs shall denote the stocks required

(i) For the normal domestic consumption of the country or territory in which they are maintained,

(ii) For conversion in that country or territory, and

(iii) For export.

The term "government stocks" in relation to any of the drugs shall denote stocks kept under government control for the use of the government and to meet exceptional circumstances.

Except where the context otherwise requires, the term "export" shall be deemed to include re-export.

CHAPTER II.—ESTIMATES

Article 2

1. Each high contracting party shall furnish annually, for each of the drugs in respect of each of his territories to which this convention applies, to the Permanent Central Board, constituted under Chapter VI of the Geneva Convention, estimates in accordance with the provisions of Article 5 of this convention.

2. In the event of any high contracting party failing to furnish, by the date specified in paragraph 4 of Article 5, an estimate in respect of any of his territories to which this convention applies, an estimate will, so far as possible, be furnished by the Supervisory Body specified in paragraph 6 of Article 5.

3. The Permanent Central Board shall request estimates for countries or territories to which this convention does not apply to be made in accordance with the provisions of this convention. If for any such country estimates are not furnished, the Supervisory Body shall itself, as far as possible, make the estimate.

Article 3

Any high contracting party may, if necessary, in any year furnish in respect of any of his territories supplementary estimates for that territory for that year with an explanation of the circumstances which necessitate such supplementary estimates.

Article 4

1. Every estimate furnished in accordance with the preceding articles, so far as it relates to any of the drugs required for domestic consumption in the country or territory in respect of which it is made, shall be based solely on the medical and scientific requirements of that country or territory.

2. The high contracting parties may, in addition to reserve stocks, create and maintain government stocks.

Article 5

1. Each estimate provided for in Articles 2 to 4 of this convention shall be in the form from time to time prescribed by the Permanent Central Board and communicated by the board to all the members of the League of Nations and to the non-member states mentioned in Article 27.

2. Every estimate shall show for each country or territory for each year in respect of each of the drugs whether in the form of alkaloid or salts or of preparations of the alkaloids or salts:

(*a*) The quantity necessary for use as such for medical and scientific needs, including the quantity required for the manufacture of preparations for the export of which export authorizations are not required, whether such preparations are intended for domestic consumption or for export;

(*b*) The quantity necessary for the purpose of conversion, whether for domestic consumption or for export;

(*c*) The amount of the reserve stocks which it is desired to maintain;

(*d*) The quantity required for the establishment and maintenance of any government stocks as provided for in Article 4.

The total of the estimates for each country or territory shall consist of the sum of the amounts specified under (*a*) and (*b*) of this paragraph with the addition of any amounts which may be necessary to bring the reserve stocks and the government stocks up to the desired level, or after deduction of any amounts by which those stocks may exceed that level. These additions or deductions shall, however, not be taken into account except in so far as the high contracting parties concerned shall have forwarded in due course the necessary estimates to the Permanent Central Board.

3. Every estimate shall be accompanied by a statement explaining the method by which the several amounts shown in it have been calculated. If these amounts are calculated so as to include a margin allowing for possible fluctuations in demand, the estimates must indicate the extent of the margin so included. It is understood that in the case of any of the drugs which are or may be included in Group II, a wider margin may be necessary than in the case of the other drugs.

4. Every estimate shall reach the Permanent Central Board not later than August 1st in the year preceding that in respect of which the estimate is made.

5. Supplementary estimates shall be sent to the Permanent Central Board immediately on their completion.

6. The estimates will be examined by a Supervisory Body. The Advisory Committee on the Traffic in Opium and other Dangerous Drugs of the League of Nations, the Permanent Central Board, the Health Committee of the League of Nations and the *Office international d'Hygiène publique* shall each have the right to appoint one member of this body. The secretariat of the Supervisory Body shall be provided by the Secretary-General of the League of Nations, who will ensure close collaboration with the Permanent Central Board.

The Supervisory Body may require any further information or details, except as regards requirements for government purposes, which it may consider necessary, in respect of any country or territory on behalf of which an estimate has been furnished in order to make the estimate complete or to explain any statement made therein, and may, with the consent of the government concerned, amend any estimate in accordance with any information or details so obtained. It is understood that in the case of any of the drugs which are or may be included in Group II a summary statement shall be sufficient.

7. After examination by the Supervisory Body as provided in paragraph 6

above of the estimates furnished, and after the determination by that body as provided in Article 2 of the estimates for each country or territory on behalf of which no estimates have been furnished, the Supervisory Body shall forward, not later than November 1st in each year, through the intermediary of the Secretary-General, to all the members of the League of Nations and non-member states referred to in Article 27, a statement containing the estimates for each country or territory, and, so far as the Supervisory Body may consider necessary, an account of any explanations given or required in accordance with paragraph 6 above, and any observations which the Supervisory Body may desire to make in respect of any such estimate or explanation, or request for an explanation.

8. Every supplementary estimate sent to the Permanent Central Board in the course of the year shall be dealt with without delay by the Supervisory Body in accordance with the procedure specified in paragraphs 6 and 7 above.

CHAPTER III.—LIMITATION OF MANUFACTURE

Article 3

1. There shall not be manufactured in any country or territory in any one year a quantity of any of the drugs greater than the total of the following quantities:

(*a*) The quantity required within the limits of the estimates for that country or territory for that year for use as such for its medical and scientific needs including the quantity required for the manufacture of preparations for the export of which export authorizations are not required, whether such preparations are intended for domestic consumption or for export;

(*b*) The quantity required within the limits of the estimates for that country or territory for that year for conversion, whether for domestic consumption or for export;

(*c*) Such quantity as may be required by that country or territory for the execution during the year of orders for export in accordance with the provisions of this convention;

(*d*) The quantity, if any, required by that country or territory for the purpose of maintaining the reserve stocks at the level specified in the estimates for that year;

(*e*) The quantity, if any, required for the purpose of maintaining the government stocks at the level specified in the estimates for that year.

2. It is understood that, if at the end of any year, any high contracting party finds that the amount manufactured exceeds the total of the amounts specified above, less any deductions made under Article 7, paragraph 1, such excess shall be deducted from the amount to be manufactured during the following year. In forwarding their annual statistics to the Permanent Central Board, the high contracting parties shall give the reasons for any such excess.

Article 7

There shall be deducted from the total quantity of each drug permitted under Article 6 to be manufactured in any country or territory during any one year:

(i) Any amounts of that drug imported including any returned deliveries of the drug, less quantities re-exported.

(ii) Any amounts of the drug seized and utilized as such for domestic consumption or for conversion.

If it should be impossible to make any of the above deductions during the course of the current year, any amounts remaining in excess at the end of the year shall be deducted from the estimates for the following year.

Article 8

The full amount of any of the drugs imported into or manufactured in any country or territory for the purpose of conversion in accordance with the estimates for that country or territory shall, if possible, be utilized for that purpose within the period for which the estimate applies.

In the event, however, of it being impossible to utilize the full amount for that purpose within the period in question, the portion remaining unused at the end of the year shall be deducted from the estimates for that country or territory for the following year.

Article 9

If at the moment when all the provisions of the convention shall have come into force, the then existing stocks of any of the drugs in any country or territory exceed the amount of the reserve stocks of that drug, which, according to the estimates for that country or territory, it is desired to maintain, such excess shall be deducted from the quantity which, during the year, could ordinarily be imported or manufactured as the case may be under the provisions of this convention.

Alternatively, the excess stocks existing at the moment when all the provisions of the convention shall have come into force shall be taken possession of by the government and released from time to time in such quantities only as may be in conformity with the present convention. Any quantities so released during any year shall be deducted from the total amount to be manufactured or imported as the case may be during that year.

CHAPTER IV.—PROHIBITIONS AND RESTRICTIONS

Article 10

1. The high contracting parties shall prohibit the export from their territories of diacetylmorphine, its salts, and preparations containing diacetylmorphine, or its salts.

2. Nevertheless, on the receipt of a request from the government of any

country in which diacetylmorphine is not manufactured, any high contracting party may authorize the export to that country of such quantities of diacetylmorphine, its salts, and preparations containing diacetylmorphine or its salts, as are necessary for the medical and scientific needs of that country, provided that the request is accompanied by an import certificate and is consigned to the government department indicated in the certificate.

3. Any quantities so imported shall be distributed by and on the responsibility of the government of the importing country.

Article II

1. No trade in or manufacture for trade of any product obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not in use on this day's date for medical or scientific purposes shall take place in any country or territory unless and until it has been ascertained to the satisfaction of the government concerned that the product in question is of medical or scientific value.

In this case (unless the government determines that such product is not capable of producing addiction or of conversion into a product capable of producing addiction) the quantities permitted to be manufactured, pending the decision hereinafter referred to, shall not exceed the total of the domestic requirements of the country or territory for medical and scientific needs, and the quantity required for export orders and the provisions of this convention shall apply.

2. Any high contracting party permitting trade in or manufacture for trade of any such product to be commenced shall immediately send a notification to that effect to the Secretary-General of the League of Nations, who shall advise the other high contracting parties and the Health Committee of the League.

3. The Health Committee will thereupon, after consulting the Permanent Committee of the *Office international d'Hygiène publique*, decide whether the product in question is capable of producing addiction (and is in consequence assimilable to the drugs mentioned in sub-group (*a*) of Group I), or whether it is convertible into such a drug (and is in consequence assimilable to the drugs mentioned in sub-group (*b*) of Group I or in Group II).

4. In the event of the Health Committee deciding that the product is not itself a drug capable of producing addiction but is convertible into such a drug, the question whether the drug in question shall fall under sub-group (*b*) of Group I or under Group II shall be referred for decision to a body of three experts competent to deal with the scientific and technical aspects of the matter, of whom one member shall be selected by the government concerned, one by the Opium Advisory Committee of the League, and the third by the two members so selected.

5. Any decisions arrived at in accordance with the two preceding paragraphs shall be notified to the Secretary-General of the League of Nations, who

will communicate it to all the members of the League and to the non-member states mentioned in Article 27.

6. If the decisions are to the effect that the product in question is capable of producing addiction or is convertible into a drug capable of producing addiction, the high contracting parties will, upon receipt of the communication from the Secretary-General apply to the drug the appropriate régime laid down in the present convention according as to whether it falls under Group I or under Group II.

7. Any such decisions may be revised, in accordance with the foregoing procedure, in the light of further experience, on an application addressed by any high contracting party to the Secretary-General.

Article 12

1. No import of any of the drugs into the territories of any high contracting party or export from those territories shall take place except in accordance with the provisions of this convention.

2. The imports in any one year into any country or territory of any of the drugs shall not exceed the total of the estimates as defined in Article 5 and of the amount exported from that country or territory during the year, less the amount manufactured in that country or territory in that year.

Chapter V.—Control

Article 13

1. (*a*) The high contracting parties shall apply to all the drugs in Group I the provisions of the Geneva Convention which are thereby applied to substances specified in its fourth article (or provisions in conformity therewith). The high contracting parties shall also apply these provisions to preparations made from morphine and cocaine and covered by Article 4 of the Geneva Convention and to all other preparations made from the other drugs in Group I except such preparations as may be exempted from the provisions of the Geneva Convention under its eighth article.

(*b*) The high contracting parties shall treat solutions or dilutions of morphine or cocaine or their salts in an inert substance, liquid or solid, which contain 0.2 per cent or less of morphine or 0.1 per cent or less of cocaine in the same way as preparations containing more than these percentages.

2. The high contracting parties shall apply to the drugs which are or may be included in Group II the following provisions of the Geneva Convention (or provisions in conformity therewith):

(*a*) The provisions of Articles 6 and 7 in so far as they relate to the manufacture, import, export and wholesale trade in those drugs;

(*b*) The provisions of Chapter V, except as regards compounds containing any of these drugs which are adapted to a normal therapeutic use;

(c) The provisions of paragraphs 1 (b), (c) and (e) and paragraph 2 of Article 22, provided:

(i) That the statistics of import and export may be sent annually instead of quarterly, and

(ii) That paragraph 1 (b) and paragraph 2 of Article 22 shall not apply to preparations containing any of these drugs.

Article 14

1. Any government which has issued an authorization for the export of any of the drugs which are or may be included in Group I to any country or territory to which neither this convention nor the Geneva Convention applies shall immediately notify the Permanent Central Board of the issue of the authorization; provided that, if the request for export amounts to 5 kilogrammes or more, the authorization shall not be issued until the government has ascertained from the Permanent Central Board that the export will not cause the estimates for the importing country or territory to be exceeded. If the Permanent Central Board sends a notification that such an excess would be caused, the government will not authorize the export of any amount which would have that effect.

2. If it appears from the import and export returns made to the Permanent Central Board or from the notifications made to the board in pursuance of the preceding paragraph that the quantity exported or authorized to be exported to any country or territory exceeds the total of the estimates for that country or territory as defined in Article 5, with the addition of the amounts shown to have been exported, the board shall immediately notify the fact to all the high contracting parties, who will not, during the currency of the year in question, authorize any new exports to that country except:

(i) In the event of a supplementary estimate being furnished for that country in respect both of any quantity over-imported and of the additional quantity required; or

(ii) In exceptional cases where the export in the opinion of the government of the exporting country is essential in the interests of humanity or for the treatment of the sick.

3. The Permanent Central Board shall each year prepare a statement showing, in respect of each country or territory for the preceding year:

(a) The estimates in respect of each drug;
(b) The amount of each drug consumed;
(c) The amount of each drug manufactured;
(d) The amount of each drug converted;
(e) The amount of each drug imported;
(f) The amount of each drug exported;
(g) The amount of each drug used for the compounding of preparations, exports of which do not require export authorizations.

If such statement indicates that any high contracting party has or may have failed to carry out his obligations under this convention, the board shall have

the right to ask for explanations, through the Secretary-General of the League of Nations, from that high contracting party, and the procedure specified in paragraphs 2 to 7 of Article 24 of the Geneva Convention shall apply in any such case.

The board shall, as soon as possible thereafter, publish the statement above mentioned together with an account, unless it thinks it unnecessary, of any explanations given or required in accordance with the preceding paragraph and any observations which the board may desire to make in respect of any such explanation or request for an explanation.

The Permanent Central Board shall take all necessary measures to ensure that the statistics and other information which it receives under this convention shall not be made public in such a manner as to facilitate the operations of speculators, or to injure the legitimate commerce of any high contracting party.

Chapter VI.—Administrative Provisions

Article 15

The high contracting parties shall take all necessary legislative or other measures in order to give effect within their territories to the provisions of this convention.

The high contracting parties shall, if they have not already done so, create a special administration for the purpose of:

(*a*) Applying the provisions of the present convention;
(*b*) Regulating, supervising and controlling the trade in the drugs;
(*c*) Organizing the campaign against drug addiction, by taking all useful steps to prevent its development and to suppress the illicit traffic.

Article 16

1. Each high contracting party shall exercise a strict supervision over:

(*a*) The amounts of raw material and manufactured drugs in the possession of each manufacturer for the purpose of the manufacture or conversion of any of the drugs or otherwise;
(*b*) The quantities of the drugs or preparations containing the drugs produced;
(*c*) The disposal of the drugs and preparations so produced with especial reference to deliveries from the factories.

2. No high contracting party shall allow the accumulation in the possession of any manufacturer of quantities of raw materials in excess of those required for the economic conduct of business, having regard to the prevailing market conditions. The amounts of raw material in the possession of any manufacturer at any one time shall not exceed the amounts required by that manufacturer for manufacture during the ensuing six months, unless the government, after due investigation, considers that exceptional conditions warrant the accumulation of additional amounts, but in no case shall the total quantities which may be accumulated exceed one year's supply.

Article 17

Each high contracting party shall require each manufacturer within his territories to submit quarterly reports stating:

(*a*) The amount of raw materials and of each of the drugs received into the factory by such manufacturer and the quantities of the drugs, or any other products whatever, produced from each of these substances. In reporting the amounts of raw materials so received, the manufacturer shall state the proportion of morphine, cocaine or ecgonine contained in or producible therefrom as determined by a method prescribed by the government and under conditions considered satisfactory by the government;

(*b*) The quantities of either the raw material or the products manufactured therefrom which were disposed of during the quarter;

(*c*) The quantities remaining in stock at the end of the quarter.

Each high contracting party shall require each wholesaler within his territories to make at the close of each year a report stating, in respect of each of the drugs, the amount of that drug contained in preparations, exported or imported during the year, for the export or import of which authorizations are not required.

Article 18

Each high contracting party undertakes that any of the drugs in Group I which are seized by him in the illicit traffic shall be destroyed or converted into non-narcotic substances or appropriated for medical or scientific use, either by the government or under its control, when these are no longer required for judicial proceedings or other action on the part of the authorities of the state. In all cases diacetylmorphine shall either be destroyed or converted.

Article 19

The high contracting parties will require that the labels under which any of the drugs, or preparations containing those drugs, are offered for sale, shall show the percentage of the drugs. These labels shall also indicate the name of the drugs as provided for in the national legislation.

CHAPTER VII.—GENERAL PROVISIONS

Article 20

1. Every high contracting party in any of whose territories any of the drugs is being manufactured or converted, at the time when this convention comes into force, or in which he proposes either at that time or subsequently to authorize such manufacture or conversion, shall notify the Secretary-General of the League of Nations indicating whether the manufacture or conversion is for domestic needs only or also for export, the date on which such manufacture or conversion will begin, and the drugs to be manufactured or converted as well as the names and addresses of persons or firms authorized.

2. In the event of the manufacture or conversion of any of the drugs ceasing in the territory of any high contracting party, he shall notify the Secretary-General to that effect, indicating the place and date at which such manufacture or conversion has ceased or will cease and specifying the drugs affected, as well as the names and addresses of persons or firms concerned.

3. The information furnished under this article shall be communicated by the Secretary-General to the high contracting parties.

Article 21

The high contracting parties shall communicate to one another through the Secretary-General of the League of Nations the laws and regulations promulgated in order to give effect to the present convention, and shall forward to the Secretary-General an annual report on the working of the convention in their territories, in accordance with a form drawn up by the Advisory Committee on Traffic in Opium and Other Dangerous Drugs.

Article 22

The high contracting parties shall include in the annual statistics furnished by them to the Permanent Central Board the amounts of any of the drugs used by manufacturers and wholesalers for the compounding of preparations whether for domestic consumption or for export for the export of which export authorizations are not required.

The high contracting parties shall also include a summary of the returns made by the manufacturers in pursuance of Article 17.

Article 23

The high contracting parties will communicate to each other, through the Secretary-General of the League of Nations, as soon as possible, particulars of each case of illicit traffic discovered by them which may be of importance either because of the quantities involved or because of the light thrown on the sources from which drugs are obtained for the illicit traffic or the methods employed by illicit traffickers.

The particulars given shall indicate as far as possible:

(*a*) The kind and quantity of drugs involved;

(*b*) The origin of the drugs, their marks and labels;

(*c*) The points at which the drugs were diverted into the illicit traffic;

(*d*) The place from which the drugs were despatched, and the names of shipping or forwarding agents or consignors; the methods of consignment and the name and address of consignees, if known;

(*e*) The methods and routes used by smugglers and names of ships, if any, in which the drugs have been shipped;

(*f*) The action taken by the government in regard to the persons involved, particularly those possessing authorizations or licenses and the penalties imposed.

(*g*) Any other information which would assist in the suppression of illicit traffic.

Article 34

The present convention shall supplement the Hague Convention of 1912 and the Geneva Convention of 1925 in the relations between the high contracting parties bound by at least one of these latter conventions.

Article 35

If there should arise between the high contracting parties a dispute of any kind relating to the interpretation or application of the present convention and if such dispute cannot be satisfactorily settled by diplomacy, it shall be settled in accordance with any applicable agreements in force between the parties providing for the settlement of international disputes.

In case there is no such agreement in force between the parties, the dispute shall be referred to arbitration or judicial settlement. In the absence of agreement on the choice of another tribunal, the dispute shall, at the request of any one of the parties, be referred to the Permanent Court of International Justice, if all the parties to the dispute are parties to the Protocol of December 16th, 1920, relating to the statute of that court, and, if any of the parties to the dispute is not a party to the Protocol of December 16th, 1920, to an arbitral tribunal constituted in accordance with the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 36.

Any high contracting party may, at the time of signature, ratification, or accession, declare that, in accepting the present convention, he does not assume any obligation in respect of all or any of his colonies, protectorates and overseas territories or territories under suzerainty or mandate, and the present convention shall not apply to any territories named in such declaration.

Any high contracting party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the convention shall apply to all territories named in such notice in the same manner as in the case of a country ratifying or acceding to the convention.

Any high contracting party may, at any time after the expiration of the five-years period mentioned in Article 32, declare that he desires that the present convention shall cease to apply to all or any of his colonies, protectorates and overseas territories or territories under suzerainty or mandate, and the convention shall cease to apply to the territories named in such declaration as if it were a denunciation under the provision of Article 32.

The Secretary-General shall communicate to all the members of the League and to the non-member states mentioned in Article 27, all declarations and notices received in virtue of this article.

Article 27

The present convention, of which the French and English texts shall both be authoritative, shall bear this day's date, and shall, until December 31st, 1931, be open for signature on behalf of any member of the League of Nations, or of any non-member state which was represented at the conference which drew up this convention, or to which the Council of the League of Nations shall have communicated a copy of the convention for this purpose.

Article 28

The present convention shall be ratified. The instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all members of the League and to the non-member states referred to in the preceding article.

Article 29

As from January 1st, 1932, the present convention may be acceded to on behalf of any member of the League of Nations or any non-member state mentioned in Article 27.

The instruments of accession shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all the members of the League and to the non-member states mentioned in that article.

Article 30

The present convention shall come into force ninety days after the Secretary-General of the League of Nations has received the ratifications or accessions of twenty-five members of the League of Nations or non-member states, including any four of the following:

France, Germany, United Kingdom of Great Britain and Northern Ireland, Japan, Netherlands, Switzerland, Turkey, and the United States of America.

Provided always that the provisions of the convention other than Articles 2 to 5 shall only be applicable from the first of January in the first year in respect of which estimates are furnished in conformity with Articles 2 to 5.

Article 31

Ratifications or accessions received after the date of the coming into force of this convention shall take effect as from the expiration of the period of ninety days from the date of their receipt by the Secretary-General of the League of Nations.

Article 32

After the expiration of five years from the date of the coming into force of this convention, the convention may be denounced by an instrument in writing,

deposited with the Secretary-General of the League of Nations. The denunciation, if received by the Secretary-General on or before the first day of July in any year, shall take effect on the first day of January in the succeeding year, and, if received after the first day of July, shall take effect as if it had been received on or before the first day of July in the succeeding year. Each denunciation shall operate only as regards the member of the League or non-member state on whose behalf it has been deposited.

The Secretary-General shall notify all the members of the League and the non-member states mentioned in Article 27 of any denunciations received.

If, as a result of simultaneous or successive denunciations, the number of members of the League and non-member states bound by the present convention is reduced to less than twenty-five, the convention shall cease to be in force as from the date on which the last of such denunciations shall take effect in accordance with the provisions of this article.

Article 33

A request for the revision of the present convention may at any time be made by any member of the League of Nations or non-member state bound by this convention by means of a notice addressed to the Secretary-General of the League of Nations. Such notice shall be communicated by the Secretary-General to the other members of the League of Nations or non-member states bound by this convention, and, if endorsed by not less than one-third of them, the high contracting parties agree to meet for the purpose of revising the convention.

Article 34

The present convention shall be registered by the Secretary-General of the League of Nations on the day of its entry into force.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention.

Done at Geneva the thirteenth day of July, one thousand nine hundred and thirty-one, in a single copy, which shall remain deposited in the archives of the Secretariat of the League of Nations, and certified true copies of which shall be delivered to all the Members of the League and to the non-member States referred to in Article 27.

GERMANY

Freiherr von Rheinbaben
Dr. Kahler

UNITED STATES OF AMERICA

John K. Caldwell
Harry J. Ansliger
Walter Lewis Treadway
Sanborn Young

(1) The Government of the United States of America reserves the right to impose, for purpose of internal control and control of import into and export from territory under its jurisdiction, of opium, coca leaves, all of their derivatives and similar substances produced by synthetic process, measures stricter than the provisions of the convention.

(2) The Government of the United States of America reserves the right to impose, for purposes of controlling transit through its territories of raw opium, coca leaves, all of their derivatives and similar substances produced by synthetic process, measures by which the production of an import permit issued by the country of destination may be made a condition precedent to the granting of permission for transit through its territory.

(3) The Government of the United States of America finds it impracticable to undertake to send statistics of import and export to the Permanent Central Opium Board short of sixty days after the close of the three-months' period to which such statistics refer.

(4) The Government of the United States of America finds it impracticable to undertake to state separately amounts of drugs purchased or imported for government purposes.

(5) Plenipotentiaries of the United States of America formally declare that the signing of the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs by them on the part of the United States of America on this date is not to be construed to mean that the Government of the United States of America recognizes a régime or entity which signs or accedes to the convention as the government of a country when that régime or entity is not recognized by the Government of the United States of America as the government of that country.

(6) The plenipotentiaries of the United States of America further declare that the participation of the United States of America in the convention for limiting the manufacture of and regulating the distribution of narcotic drugs, signed on this date, does not involve any contractual obligation on the part of the United States of America to a country represented by a régime or entity which the Government of the United States of America does not recognize as the government of that country until such country has a government recognized by the Government of the United States of America.

J. K. C.
H. J. A.
W. L. T.
S. Y.

ARGENTINE REPUBLIC

Ad referendum

FERNANDO PEREZ

AUSTRIA

E. PFLÜGL

Dr BRUNO SCHMITZ

BELGIUM

Dr F. DE MYTTENAERE

BOLIVIA

M. CUELLAR

BRAZIL

RAUL DO RIO BRANCO

GREAT BRITAIN AND NORTHERN IRELAND

and all parts of the British Empire which are not separate Members of the League of Nations.

MALCOLM DELEVINGNE

CANADA

C. H. L. SHARMAN

W. A. RIDDELL

INDIA

R. P. PARANJPYE

CHILE

ENRIQUE J. GAJARDO V.

COSTA RICA

VIRIATO FIGUEREDO LORA

CUBA

G. DE BLANCK

Dr B. PRIMELLES

DENMARK

GUSTAV RASMUSSEN

FREE CITY OF DANZIG

F. SOKAL

DOMINICAN REPUBLIC

CH. ACKERMANN

EGYPT

T. W. RUSSELL

SPAIN

JULIO CASARES

ABYSSINIA

Cte LAGARDE DUC D'ENTOTTO

FRANCE

G. BOURGOIS

The French Government makes every reservation, with regard to the colonies, protectorates and mandated territories under

its authority, as to the possibility of regularly producing the quarterly statistics referred to in Article 13 within the strict time-limit laid down. (*Translation by the Secretariat of the League of Nations.*)

GREECE

R. RAPHAËL.

GUATEMALA

LUIS MARTÍNEZ MONT

HEJAZ, NEJD AND DEPENDENCIES

HAFIZ WAHBA

ITALY

CAVAZZONI STEFANO

JAPAN

S. SAWADA

S. OHDACHI

LIBERIA

Dr A. SOTTILE

Subject to ratification by the Senate of the Republic of Liberia.

LITHUANIA

ZAUNIUS

LUXEMBURG

CH. G. VERMAIRE

MEXICO

S. MARTÍNEZ DE ALVA

MONACO

C. HENTSCH

PANAMA

Dr ERNESTO HOFFMANN

PARAGUAY

R. V. CABALLERO DE BEDOYA

THE NETHERLANDS

V. WETTUM

PERSIA

A. SEPAHBODY

POLAND

CHODŹKO

PORTUGAL

AUGUSTO DE VASCONCELLOS

A. M. FERRAZ DE ANDRADE

RUMANIA

C. ANTONIADE

SAN MARINO

FERRI CHARLES EMILE

SIAM

DAMRAS

As our Harmful Habit-forming Drugs Law goes beyond the provisions of the Geneva Convention and the present convention on certain points, my government reserves the right to apply our existing law.

SWEDEN

K. I. WESTMAN

SWITZERLAND

PAUL DINICHERT

Dr H. CARRIÈRE

CZECHOSLOVAKIA

ZD. FIERLINGER

URUGUAY

ALFREDO DE CASTRO

VENEZUELA

Ad referendum

L. G. CHACÍN ITRIAGO

PROTOCOL OF SIGNATURE

I. When signing the convention for limiting the manufacture and regulating the distribution of narcotic drugs dated this day, the undersigned plenipotentiaries, duly authorized to that effect and in the name of their respective governments, declare to have agreed as follows:

If, on July 13th, 1933, the said convention is not in force in accordance with the provisions of Article 30, the Secretary-General of the League of Nations shall bring the situation to the attention of the Council of the League of Nations, which may either convene a new conference of all the members of the League and non-member states on whose behalf the convention has been

signed or ratifications or accessions deposited, to consider the situation, or take such measures as it considers necessary. The government of every signatory or acceding member of the League of Nations or non-member state undertakes to be present at any conference so convened.

II. The Japanese Government made the following reservation, which is accepted by the other high contracting parties:

> Crude morphine resulting from the manufacture of prepared opium in the factory of the Government-General of Formosa and held in stock by that government shall not be subjected to the limitation measures provided for in this convention.
>
> Such stocks of crude morphine will only be released from time to time in such quantities as may be required for the manufacture of refined morphine in factories licensed by the Japanese government in accordance with the provisions of the present convention.

In faith whereof the undersigned have affixed their signatures to this protocol.

Done at Geneva, the thirteenth day of July, one thousand nine hundred and thirty-one, in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations; certified true copies will be transmitted to all members of the League of Nations and to all non-member States represented at the conference.

[Here follow the same signatures as are affixed to the convention preceding, except that Liberia did not sign, and J. Sakalauskas signed for Lithuania instead of Zaunius.]

RATIFICATIONS, ACCESSIONS, AND RESERVATIONS [5]

Received by the Secretary-General of the League of Nations on or before April 10, 1933, the ninetieth day before July 9, 1933, when the convention entered into force under the terms of Article 30:

Belgium (not including Belgian Congo or Ruanda Urundi); Brazil; Bulgaria (convention only); Canada; Chile (convention only); Costa Rica; Cuba; Dominican Republic; Egypt; France [6]; Germany; Great Britain (excluding colonies, etc.); Hungary; India; Italy; Lithuania; Mexico (with reservation of right to impose more severe measures); Monaco; Nicaragua; Persia; Peru; Portugal (with reservation as to colonies furnishing statistics under Art. 13); Salvador (convention only, with reservation given below) [7];

[5] U. S. Treaty Series, No. 863; G. B. Treaty Series No. 31 (1933).

[6] See reservation at signature, *supra*, p. 41.

[7] The Republic of Salvador does not agree to the provisions of Article 26 on the ground that there is no reason why the high contracting parties should be given the option of not applying the convention to their colonies, protectorates, and overseas mandated territories.

The Republic of Salvador states that it disagrees with the reservations embodied in Nos. 5 and 6 of the declarations made by the plenipotentiaries of the United States of America regarding governments not recognized by the government of that country; in its opinion, those reservations constitute an infringement of the national sovereignty of Salvador, whose present government, though not as yet recognized by the United States Government, has been recognized by the majority of the civilized countries of the world.

Spain; Sudan; Sweden; Switzerland; Turkey; United States of America[8]; Uruguay.

Received subsequently:

Czechoslovakia (April 12); Free City of Danzig (April 18); Guatemala, convention only (May 1); Haiti, convention only (May 4); Irish Free State (April 11); Netherlands, including the Netherland East Indies, Surinam, and Curaçao (May 22); Poland (April 11); Roumania (April 11); San Marino (June 12).

[8] See reservation at signature, *supra*, p. 40.

GREECE—UNITED STATES

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE HELLENIC REPUBLIC [1]

Signed at Athens, May 6, 1931; ratifications exchanged, Nov. 1, 1932

The United States of America and Greece, desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America: Mr. Robert Peet Skinner, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Athens; and

The President of the Hellenic Republic: Mr. Andreas Michalakopoulos, Vice President of the Government, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Greece shall, upon requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of, any of the crimes or offenses specified in Article II of the present treaty committed within the jurisdiction of one of the high contracting parties, and who shall seek an asylum or shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present treaty, who shall have been charged with or convicted of any of the following crimes or offenses:

1. Murder (including crimes designated by the terms parricide, poisoning, infanticide, manslaughter when voluntary).

2. Malicious wounding or inflicting grievous bodily harm with premeditation.

3. Rape, abortion, carnal knowledge of children under the age of fifteen years.

[1] U. S. Treaty Series, No. 855.

4. Abduction or detention of women or girls for immoral purposes.

5. Bigamy.

6. Arson.

7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

8. Crimes committed at sea:

(*a*) Piracy, as commonly known and defined by the law of nations, or by statute;

(*b*) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

(*c*) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel;

(*d*) Assault on board ship upon the high seas with intent to do bodily harm.

9. Burglary.

10. The act of breaking into and entering the offices of the government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, [insurance and other companies,] [2] or other buildings not dwellings with intent to commit a felony therein.

11. Robbery.

12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the government or public authority, including courts of justice, or the uttering or fraudulent use of any of the same.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local or municipal governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of state or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

15. Embezzlement or criminal misappropriation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Greek equivalent.

16. Embezzlement by any persons hired, salaried, or employed, to the detriment of their employers or principals when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Greek equivalent.

17. Kidnapping of minors or adults, defined to be the abduction or deten-

[2] See Protocol of Exchange, *post*, p. 51.

tion of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or Greek equivalent.

19. Obtaining money, valuable securities or other property by false pretenses, or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Greek equivalent.

20. Perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Greek equivalent.

22. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

23. Wilful desertion or wilful non-support of minor or dependent children, or of other dependent persons, provided that the crime or offense is punishable by the laws of both countries.

24. Bribery.

25. Crimes or offenses against the bankruptcy laws.

26. Crimes or offenses against the laws for the suppression of traffic in narcotics.

27. Extradition shall also take place for participation in any of the crimes or offenses before mentioned as an accessory before or after the fact, or in any attempt to commit any of the aforesaid crimes or offenses. However, extradition for participation or attempt will be accorded in the case of a suspected person only if the maximum of the possible punishment is two years or more, and, in the case of one condemned, only if the sentence pronounced by the jurisdiction of the demanding state is six months or more.

Article III

The provisions of the present treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the high contracting parties in virtue of this treaty shall be tried or punished for a political crime or offense committed before his extradition. The state applied to, or courts of such state, shall decide whether the crime or offense is of a political character. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the sovereign or head of a foreign state, or against the life of any member of his family, shall not be deemed sufficient to sustain that such crime or offense

was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense, committed prior to his extradition, other than that for which he was surrendered, unless he has been at liberty for one month after having been tried, to leave the country, or, in case of conviction, for one month after having suffered his punishment or having been pardoned.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of either the surrendering or the demanding country, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the two parties hereto, shall be also claimed by one or more Powers pursuant to treaty provisions, on account of crimes or offenses committed within their jurisdiction, such criminal shall be delivered to that state whose demand is first received unless the demand is waived. This article shall not affect such treaties as have previously been concluded by one of the contracting parties with other states.

ARTICLE VIII

Under the stipulations of this treaty, neither of the high contracting parties shall be bound to deliver up its own citizens, except in cases where such citizenship has been obtained after the perpetration of the crime for which extradition is sought. The state appealed to shall decide whether the person claimed is its own citizen.

ARTICLE IX

The expense of transportation of the fugitive shall be borne by the government which has preferred the demand for extradition. The appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim

other than for the board and lodging of a fugitive prior to his surrender, arising out of the arrest, detention, examination and surrender of fugitives under this treaty, shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government giving assistance, who shall, in the usual course of their duty receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the high contracting parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE XI

The stipulations of the present treaty shall be applicable to all territory wherever situated, belonging to either of the high contracting parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the high contracting parties. In the event of the absence of such agents from the country or where extradition is sought from territory included in the preceding paragraphs, other than the United States or Greece, requisitions may be made by superior consular officers.

The arrest of the fugitive shall be brought about in accordance with the laws of the respective countries, and if, after an examination, it shall be decided, according to the law and the evidence, that extradition is due pursuant to this treaty, the fugitive shall be surrendered in conformity to the forms of law prescribed in such cases.

The person provisionally arrested, shall be released, unless within two months from the date of arrest in Greece, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding government, or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime or offense for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of

the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII

The present treaty, of which the English and Greek texts are equally authentic, shall be ratified by the high contracting parties in accordance with their respective constitutional methods, and shall take effect on the date of the exchange of ratifications which shall take place at Washington as soon as possible.

ARTICLE XIII

The present treaty shall remain in force for a period of five years, and in case neither of the high contracting parties shall have given notice one year before the expiration of that period of its intention to terminate the treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the high contracting parties.

In witness whereof the above named plenipotentiaries have signed the present treaty and have hereunto affixed their seals.

Done in duplicate at Athens this sixth day of May, nineteen hundred and thirty-one.

[SEAL] ROBERT P. SKINNER
[SEAL] A. MICHALAKOPOULOS

NOTES CONCERNING MOST-FAVORED-NATION TREATMENT, EXCHANGED AT THE TIME OF SIGNATURE OF THE EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND GREECE

The American Minister to the Greek Minister of Foreign Affairs

LEGATION OF THE UNITED STATES OF AMERICA,
Athens, *May 6, 1931.*

SIR:

In signing today the treaty of extradition between the United States of America and the Hellenic Republic, I have the honor to declare to your Excellency, under the authority and in the name of my government, that the Government of the United States will extend to Greece the most favorable treatment now accorded, or which may hereafter be accorded, by the United States to a third Power, with respect to matters dealt with in Articles 9 and 11 of the above mentioned treaty, particularly in that which concerns expenses of every nature, including the usual charges, and the procedure to be followed after the demand for extradition.

Accept, Sir, the renewed assurances of my high consideration.

ROBERT P. SKINNER

His Excellency
THE MINISTER OF FOREIGN AFFAIRS
Athens.

The Greek Minister of Foreign Affairs to the American Minister

[Translation]

MINISTRY OF FOREIGN AFFAIRS,
Athens, *May 6, 1931.*

MR. MINISTER:

I have the honor to acknowledge to Your Excellency receipt of your letter of this date, reading as follows:

[Here follows the text of Mr. Skinner's note, preceding.]

Acknowledging receipt of this communication, with the content of which the Hellenic Government is in agreement, I take this opportunity to renew to you, Mr. Minister, the assurances of my high consideration.

A. MICHALAKOPOULOS

His Excellency
MR. ROBERT PEET SKINNER
Envoy Extraordinary and Minister
Plenipotentiary of the United States
of America.
City.

PROTOCOL OF EXCHANGE

The undersigned, the Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of Greece at Washington, met this day for the purpose of exchanging the ratifications of the extradition treaty between the United States of America and Greece, signed at Athens on May 6, 1931.

It being found on a comparison of the respective ratifications that the words "insurance and other companies," in Article 2, paragraph 10, of the English text of the treaty as contained in the Greek instrument of ratification, are not contained in that article and paragraph as it appears in the English text of the instrument of ratification of the United States of America, the Secretary of State of the United States of America declared that it was intended by the Government of the United States to have these words appear in the English text of the United States original of the treaty, as their equivalent appears in the Greek text thereof, that their omission from the English text was an inadvertence and that the United States original of the treaty and the United States ratified exchange copy of the treaty should be understood as including those words, the same as if they had been actually written in the English text thereof.

This declaration being accepted by the Minister of Greece, the exchange took place this day in the usual form.

In witness whereof, the aforesaid plenipotentiaries have signed the present Protocol of Exchange and have affixed their seals thereto.

DONE at Washington this first day of November, one thousand nine hundred and thirty-two.

HENRY L. STIMSON [SEAL]
CH. SIMOPOULOS [SEAL]

SEVENTH INTERNATIONAL CONFERENCE OF AMERICAN STATES

Montevideo, Uruguay, December 3–26, 1933

FINAL ACT[1]

The Governments of Honduras, United States of America, El Salvador, the Dominican Republic, Haiti, Argentina, Venezuela, Uruguay, Mexico, Panama, Bolivia, Guatemala, Brazil, Ecuador, Nicaragua, Colombia, Chile, Peru and Cuba, having accepted the invitation extended to them under date of August 2, 1933, by the Government of Uruguay pursuant to the action taken by the Pan American Union with respect to the convocation of the Seventh International Conference of American States, designated for that purpose as delegates:

Honduras: Miguel Paz Baraona, Augusto C. Coello, Luis Bográn.

United States of America: Cordell Hull, Alexander W. Weddell, J. Reuben Clark, J. Butler Wright, Spruille Braden, Miss Sophonisba P. Breckinridge.

El Salvador: Héctor David Castro, Arturo Ramón Avila, J. Cipriano Castro.

Dominican Republic: Tulio M. Cestero.

Haiti: Justin Barau, Francis Salgado, Antoine Pierre-Paul, Edmond Mangonés.

Argentina: Carlos Saavedra Lamas, Juan F. Cafferata, Ramón S. Castillo, Carlos Brebbia, Isidoro Ruiz Moreno, Luis A. Podestá Costa, Raúl Prebisch, Daniel Antokoletz.

Venezuela: César Zumeta, Luis Churion, José Rafael Montilla.

Uruguay: Alberto Mañé, Juan José Arrezaga, José G. Antuña, Juan Carlos Blanco, Señora Sofía A. V. de Demicheli, Martín R. Echegoyen, Luis Alberto de Herrera, Pedro Manini Ríos, Mateo Marques Castro, Rodolfo Mezzera, Octavio Morató, Luis Morquio, Teófilo Piñeyro Chain, Dardo Regules, José Serrato, José Pedro Varela.

Paraguay: Justo Pastor Benítez, Gerónimo Riart, Horacio A. Fernández, Señorita María F. González.

Mexico: José Manuel Puig Casauranc, Alfonso Reyes, Basilio Vadillo, Genaro V. Vásquez, Romeo Ortega, Manuel J. Sierra, Eduardo Suárez.

Panama: J. D. Arosemena, Ernesto Hoguín, Oscar R. Muller, Magín Pons.

Bolivia: Casto Rojas, David Alvestegui, Arturo Pinto Escalier.

Guatemala: Alfredo Skinner Klee, José González Campo, Carlos Salazar, Manuel Arroyo, Ramiro Fernández.

Brazil: Afranio de Mello Franco, Lucilo A. da Cunha Bueno, Francisco Luis da Silva Campos, Gilberto Amado, Carlos Chagas, Samuel Ribeiro.

Ecuador: Augusto Aguirre Aparicio, Humberto Albornoz, Antonio Parra, Carlos Puig Vilassar, Aturo Scarone.

[1] Reprinted from the provisional edition, including the conventions and additional protocol adopted by the Conference.

Nicaragua: Leonardo Argüello, Manuel Cordero Reyes, Carlos Cuadra Pasos.

Colombia: Alfonso López, Raimundo Rivas, José Camacho Carreño.

Chile: Miguel Cruchaga Tocornal, Octavio Señoret Silva, Gustavo Rivera, José Ramón Gutiérrez, Féliz Nieto del Río, Francisco Figueroa Sánchez, Benjamín Cohen.

Peru: Alfredo Solf y Muro, Felipe Barreda Laos, Luis Fernán Cisneros.

Cuba: Angel Alberto Giraudy, Herminio Portell Vilá, Alfredo Nogueira.

Who met at Montevideo on December 3, 1933, under the provisional presidency of Dr. Alberto Mañé, Minister of Foreign Affairs of Uruguay, assisted by Dr. Enrique E. Buero, Secretary General of the Conference in accordance with the designation made by the Government of Uruguay by decree of May 19, 1933.

Dr. Alberto Mañé was elected Permanent President of the Conference at the session held on December 4, 1933.

The Conference decided to form ten committees, among which the topics contained in the program were distributed. To the first eight committees were assigned the eight chapters comprising the program of the Conference; to the Ninth Committee the study of the Argentine proposal relative to the creation of a Special and Preparatory Committee of an Economic and Commercial Conference. Subsequently there were referred to this committee Topics 9 (a), 10, 11 and 12 of Chapter IV of the program. The Tenth Committee was on Coördination and Style.

The following were designated Presidents and Vice Presidents of the respective committees:

First Committee: Chapter I of the Program, ORGANIZATION OF PEACE:
President, Miguel Cruchaga Tocornal (Chile).
Vice President, César Zumeta (Venezuela).

Second Committee: Chapter II of the Program, PROBLEMS OF INTERNATIONAL LAW:
President, Afranio de Mello Franco (Brazil).
Vice President, Angel Giraudy (Cuba).

Third Committee: Chapter III of the Program, POLITICAL AND CIVIL RIGHTS OF WOMEN:
President, José González Campos (Guatemala).
Vice President, Arturo Ramón Avila (El Salvador).

Fourth Committee: Chapter IV of the Program, ECONOMIC AND FINANCIAL PROBLEMS:
President, Manuel Puig Casauranc (México).
Vice President, Alfonso López (Colombia).

Fifth Committee: Chapter V of the Program, SOCIAL PROBLEMS:
President, Gerónimo Riart (Paraguay).
Vice President, Carlos Puig (Ecuador).

Sixth Committee: Chapter VI of the Program, INTELLECTUAL COÖPERATION:
President, Justin Barau (Haiti).
Vice President, Tulio M. Cestero (Dominican Republic).
Seventh Committee: Chapter VII of the Program, TRANSPORTATION:
President, Casto Rojas (Bolivia).
Vice President, J. Butler Wright (United States).
Eighth Committee: Chapter VIII of the Program, INTERNATIONAL CONFERENCES OF AMERICAN STATES:
President, Leonardo Arguello (Nicaragua).
Vice President, J. D. Arosemena (Panamá).
Ninth Committee: SPECIAL ECONOMIC PROBLEMS (Argentine Initiative, and Topics 9 (a), 10, 11 and 12 of Chapter IV of the Program):
Tenth Committee: COÖRDINATION AND STYLE:
President, Miguel Paz Baraona (Honduras).
Vice President, José Pedro Varela (Uruguay).

As a result of the deliberations, which have been recorded in the stenographic reports of the plenary sessions and in the minutes of the committee meetings, and which have been held from December 4th to December 26th, the following resolutions, recommendations and agreements have been adopted:[2]

XXXI

GOOD OFFICES AND MEDIATION

The Seventh International Conference of American States:

With a view to providing a method for the peaceful adjustment of disputes between states where other methods are not, for any reason, in effective operation,

RESOLVES:

It shall never be deemed an unfriendly act for any state or states to offer good offices or mediation to other states engaged in a controversy threatening or rupturing their peaceful relations, to the end that such differences may be so composed as to avoid recourse to forcible measures of force between the differing states. The aforementioned good offices or mediation shall not be applicable when other methods of peaceful solution emanating from treaties or agreements between the parties for the peaceful settlement of international disputes shall have begun to function. (Approved December 23, 1933.)

XXII

OFFENSES COMMITTED ON BOARD AIRCRAFT

The Seventh International Conference of American States,

RESOLVES:

To recommend the adoption of the following principles on the penalty for offenses committed on board aircraft:

[2] Only the resolutions and recommendations dealing with international law are reprinted in this Supplement. All the conventions adopted by the Conference are reproduced herein. —ED.

1. The acts committed on board a private aircraft while it is in contact with the soil of a foreign state, fall within the competence of the courts of that state, and shall be judged by its laws.

2. Any aircraft without the boundaries of any state, on the high seas, is subject to the legislation and jurisdiction of its flag.

3. If the offense be committed on an aircraft flying over a foreign state, its penalty shall come under the jurisdiction of that state, if the airship's next landing takes place in said state; otherwise, the offense shall fall under the jurisdiction of the state where the next landing is effected. In this latter case, the legislation of the country over which the aircraft was flying when the offense was committed shall be applied; and, if it should be impossible to determine the territory over which the offense was committed, the legislation of the country to which the aircraft belongs shall be enforced.

The pilot of aircraft in flight, to whom an offense is reported, shall effect a landing at the first known aërodrome and notify the competent authority. The summary of the case there made, shall determine the law to be applied.

4. In the case of damages effected from aircraft on persons or property of the underlying state, said state shall have competent jurisdiction in the matter and its legislation shall apply.

5. A state that does not concede extradition of its nationals, is obliged to punish them on their return to its territory after having committed on an aircraft an offense covered by its penal laws. In the case of a foreigner, the pertinent regulations of extradition shall be enforced.

(Mr. Wright placed on record that, as delegate of the United States of America, he abstained from voting on this question.)

Furthermore, the Seventh Conference invites the different states to adhere to the Havana Convention,[1] and recommends that its regulations be included in the program of the Eighth International Conference of American States, and that all nations be urged to study the rules adopted at the Warsaw Convention. (Approved December 23, 1933.)

LXX

METHODS OF CODIFICATION OF INTERNATIONAL LAW

The Seventh International Conference of American States:

CONSIDERING: That the codification of international law must be gradual and progressive, it being a vain illusion to think for a long time of the possibility of carrying it out completely;

That, without prejudice to the work already accomplished in the International Conferences of American States, the task of gradual and progressive codification must be done by jurists specialized in international law, who should be provided in the decisive meetings with plenipotentiary powers to sign treaties;

[1] Printed in this JOURNAL, Supplement, Vol. 22 (1928), p. 124.

That it is indispensable, if it is desired to do practical work with actual results, to seek the conjunction of the juridical viewpoints, theoretical and universal in essence, with the political viewpoints, positive and localistic by nature;

That in this connection the necessity to coördinating this work with the work of codification being done by the League of Nations must be taken into account as far as possible, since international law tends to universalize its rules as the interdependence of the civilized community becomes more and more confirmed and consolidated;

That to this end it is necessary to create a special organization for the preparatory work with the purpose of fixing the basic elements for the gradual and progressive elaboration of international law;

RESOLVES:

1. There is maintained the International Commission of Jurisconsults, created by the Third International American Conference,[1] with the mission of bringing about the gradual and progressive codification of international public law and international private law. This commission will be composed of jurists named by each government

2. Each government of the American republics will create respectively a national commission of codification of international law. This Conference considers that these commissions shall be made up of qualified officials or ex-officials from the respective Foreign Office, and by professors or jurists who are specialists in international law. Each commission shall act through the channel of the respective Foreign Office.

3. There shall be created a Commission of Experts with the duty of organizing with a preparatory character, the work of codification. This commission shall be composed of seven jurists chosen as follows:

Each of the twenty-one governments shall send to the Pan American Union a list of not to exceed five persons having the same qualifications as the members of the national commissions provided for in Article 2 hereof. The Pan American Union shall transmit all these different lists to the governments.

Once the definite lists are made up each government shall designate from said lists seven persons, of which only two shall be nationals, whom they desire to constitute the Commission of Experts, communicating its choice to the Pan American Union.

If, after three months a government has not submitted its list of candidates, then after a month's delay the Pan American Union will proceed to form the final list with its names received to date The seven persons who obtain the highest number of votes shall constitute the first Commission of Experts. In

[1] For text of the convention creating the commission, see this JOURNAL, Supplement, Vol. 6 (1912), p. 173. See also editorial comment in this JOURNAL, Vol. 6 (1912), p. 931; current note, Vol. 18 (1924), p. 126; editorial comments, Vol. 19 (1925), pp. 333, 540; articles, Vol. 20 (1926), p. 656, Vol. 21 (1927), p. 417; editorial comments and articles in Vol. 22 (1928), pp. 135, 348, 356, 358, 772; and editorial comment, Vol. 25 (1931), p. 301.

case of a tie the Governing Board shall decide it by lot. It is understood, however, that the Commission of Experts, however chosen or elected, must always contain at least one person representing each of the two great systems of jurisprudence of this hemisphere.

If the name of no such person is found among the first seven persons having the highest number of votes, then that person having the highest number of votes of any person listed by the government or governments having the particular system of jurisprudence not represented among those having the seven highest votes, shall be made a member of the commission in the place of that particular person of the seven who had the least number of votes.

4. The persons elected pursuant to the foregoing provisions shall hold office until the end of the first session of the International Commission of Jurisconsults.

The International Commission of Jurisconsults shall at its first meeting determine the organization, functions, duties, and terms of office of the Commission of Experts and of its members. Until such determination is made the commission shall have such organization, functions, and duties as are hereinafter provided.

This Commission of Experts shall be a subcommittee of the International Commission of Jurisconsults. The members of this subcommittee shall be *ex officio* members of the International Commission of Jurisconsults. When that International Commission is in session, the members of the subcommittee shall be considered as members thereof and of the delegation named by the country of which they are nationals.

5. There shall be created in the Pan American Union a general secretariat charged with the files and correspondence of the codifying bodies. With this in view the Pan American Union will establish a juridical section of a purely administrative character.

6. Both the Commission of Experts as well as the separate local commissions of codification should take into account, in so far as it may be convenient, the suggestions and projects which other institutions may submit for its consideration.

7. The first meeting of the Commission of Experts will take place as soon as possible at the Pan American Union in Washington, where there shall have been organized a juridical section referred to in Article 5.

The subsequent meetings of the Commission of Experts shall be annual and will take place in the various cities of America which the commission itself shall determine at the proper time.

8. The Commission of Experts will proceed to examine all the problems of private and public international law and will make a list of those matters which it considers susceptible of codification. With respect to each point it will draw up a questionnaire which it will submit to the consideration of all the national commissions of codification.

Each commission will study thoroughly the topics contained in the question-

naire and within a reasonable time will give its views thereon, returning the reply through the respective foreign offices to the juridical section of the Pan American Union.

This procedure does not prevent an exchange of ideas on one or more topics between the national commissions themselves, it being on the contrary even desirable that this method be adopted.

9. It shall be the special duty of the juridical section of the Pan American Union to expedite whenever necessary the prompt submission of the views solicited.

Once the replies and observations have been received from the foreign offices, the division shall notify the Governing Board of the Pan American Union in order that it may arrange a meeting of the Commission of Experts which shall be held at the place which may have been decided upon at its previous meeting.

10. The Commission of Experts so convoked shall undertake a thorough study of the replies and observations received and shall proceed to classify them according to topics or concrete points in two categories:

(1) Those which are susceptible of codification because there is a harmony of opinions which permits the formulation of concrete bases of discussion;

(2) Those which do not fulfill these conditions.

When the classification is made, the Commission of Experts shall coördinate the various points of view and shall form concrete bases of discussion for the International Commission of Jurisconsults. The antecedents thus prepared by the Commission of Experts and all the documents transmitted by the governments shall serve as a basis for the work of the International Commission of Jurisconsults.

The Commission of Experts, when it may have prepared a reasonable number of projects or declarations such as to justify a meeting of the International Commission of Jurisconsults, will so notify the Governing Board of the Pan American Union in order that the latter may call that commission together.

11. The next meeting of the International Commission of Jurisconsults will be held in the City of Rio de Janeiro and the following meetings in the places arranged by the commission itself.

12. The members of the International Commission of Jurisconsults shall have the character of plenipotentiary delegates.

13. The organs of codification shall not, in the work of juridical organization, alter the fundamental principles of positive international law already established by convention between the American states.

14. The expenses arising out of the attendance of the delegates or of experts at the meetings provided in the previous articles shall be for the account of the government whose national is concerned. (Approved December 24, 1933.)

LXXII

INDUSTRIAL AND AGRICULTURAL USE OF INTERNATIONAL RIVERS

The Seventh International Conference of American States,

DECLARES:

1. In case that in order to exploit the hydraulic power of international waters for industrial or agricultural purposes, it may be necessary to make studies with a view to their utilization, the states on whose territories the studies are to be carried on, if not willing to make them directly, shall facilitate by all means the making of such studies on their territories by the other interested state and for its account.

2. The states have the exclusive right to exploit, for industrial or agricultural purposes, the margin which is under their jurisdiction, of the waters of international rivers. This right, however, is conditioned in its exercise upon the necessity of not injuring the equal right due to the neighboring state on the margin under its jurisdiction.

In consequence, no state may, without the consent of the other riparian state, introduce into water courses of an international character, for the industrial or agricultural exploitation of their waters, any alteration which may prove injurious to the margin of the other interested state.

3. In the cases of damage referred to in the foregoing article an agreement of the parties shall always be necessary. When damages capable of repair are concerned, the works may only be executed after adjustment of the incident regarding indemnity, reparation (or) compensation of the damages, in accordance with the procedure indicated below.

4. The same principles shall be applied to successive rivers as those established in Articles 2 and 3, with regard to contiguous rivers.

5. In no case, either where successive or where contiguous rivers are concerned, shall the works of industrial or agricultural exploitation performed cause injury to the free navigation thereof.

6. In international rivers having a successive course the works of industrial or agricultural exploitation performed shall not injure free navigation on them but, on the contrary, try to improve it in so far as possible. In this case, the state or states planning the construction of the works shall communicate to the others the result of the studies made with regard to navigation, to the sole end that they may take cognizance thereof.

7. The works which a state plans to perform in international waters shall be previously announced to the other riparian or co-jurisdictional states. The announcement shall be accompanied by the necessary technical documentation in order that the other interested states may judge the scope of such works, and by the name of the technical expert or experts who are to deal, if necessary, with the international side of the matter.

8. The announcement shall be answered within a period of three months, with or without observations. In the former case, the answer shall indicate

the name of the technical expert or experts to be charged by the respondent with dealing with the technical experts of the applicant, and shall propose the date and place for constituting the Mixed Technical Commission of technical experts from both sides to pass judgement on the case. The commission shall act within a period of six months, and if within this period no agreement has been reached, the members shall set forth their respective opinions, informing the governments thereof.

9. In such cases, and if it is not possible to reach an agreement through diplomatic channels, recourse shall be had to such procedure of conciliation as may have been adopted by the parties beforehand or, in the absence thereof, to the procedure of any of the multilateral treaties or conventions in effect in America. The tribunal shall act within a period of three months, which may be extended, and shall take into account, in the award, the proceedings of the Mixed Technical Commission.

10. The parties shall have a month to state whether they accept the conciliatory award or not. In the latter case and at the request of the interested parties the disagreement shall then be submitted to arbitration, the respective tribunal being constituted by the procedure provided in the Second Hague Convention for the peaceful solution of international conflicts. (Approved December 24, 1933.)

DECLARATION OF THE DELEGATION OF THE UNITED STATES OF AMERICA REGARDING THE DECLARATION CONCERNING THE INDUSTRIAL AND AGRICULTURAL USE OF INTERNATIONAL RIVERS

The delegation of the United States of America, believing that the Declaration on the Industrial and Agricultural Use of International Rivers is not sufficiently comprehensive in scope to be properly applicable to the particular problems involved in the adjustment of its rights in the international rivers in which it is interested, refrain from giving approval to such declaration.

LXXI

INTERNATIONAL RESPONSIBILITY OF THE STATE

The Seventh International Conference of American States,

RESOLVES:

1. To recommend that the study of the entire problem relating to the international responsibility of the state, with special reference to responsibility for manifest denial or unmotivated delay of justice be handed over to the agencies of codification instituted by the International Conferences of American States and that their studies be coördinated with the work of codification being done under the auspices of the League of Nations.

2. That, notwithstanding this, it reaffirms once more, as a principle of international law, the civil equality of the foreigner with the national as the maximum limit of protection to which he may aspire in the positive legislations of the states.

3. Reaffirms equally that diplomatic protection cannot be initiated in favor

of foreigners unless they exhaust all legal measures established by the laws of the country before which the action is begun. There are excepted those cases of manifest denial or unreasonable delay of justice which shall always be interpreted restrictively, that is, in favor of the sovereignty of the state in which the difference may have arisen. Should no agreement on said difference be reached through diplomatic channels, within a reasonable period of time, the matter shall then be referred to arbitration.

4. The Conference recognizes, at the same time, that these general principles may be the subject of definition or limitations and that the agencies charged with planning the codification shall take into account the necessity of definition and limitations in formulating the rules applicable to the various cases which may be provided for. (Approved December 24, 1933.)

IN WITNESS WHEREOF, the undersigned delegates sign this Final Act.

Done in Montevideo, this 26th day of December, 1933, in English, Spanish, Portuguese and French, which shall be deposited in the archives of the Pan American Union, where they shall be transmitted by the Ministry of Foreign Affairs of Uruguay, to which they shall be delivered by the Secretary General of the Conference.

[The signatures are omitted from this provisional edition.]

The delegation of Venezuela desires to record: (1) That, with respect to the industrial and agricultural use of international rivers, Venezuela subjects the regulation of this matter to existing partial agreements previously entered into with neighboring states. (2) In view of the fact that Venezuela is obligated by the provisions of Part XIII of the Treaty of Versailles, it will not be possible for her to associate with the activities of the proposed Inter-American Labor Institute, except in so far as these may not be contrary to such provisions. (3) Venezuela subscribes to Resolutions VII, XIX, LII and LXX with the reservation that they are subject to further study by the Government as may be required by Venezuela Legislation or by reasons already stated. Venezuela likewise reserves the corresponding legislative approval in all matters connected with finance, customs and budgetary laws in force in Venezuela.

The delegation of Mexico records expressly that it makes a general reservation on the resolutions of the Conference regarding the following: First. Industrial and agricultural use of international rivers. Second. Penal provisions covering aërial navigation.

CONVENTION ON THE NATIONALITY OF WOMEN

The governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on the Nationality of Women, have appointed the following plenipotentiaries:

[For names of the plenipotentiaries, see Final Act, pp. 52, *supra*.]

Who, after having exhibited their full powers, which were found in good and due form, have agreed upon the following:

Article 1

There will be no distinction based on sex as regards nationality, in their legislation or in their practice.

Article 3

The present convention shall be ratified by the high contracting parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 3

The present convention will enter into force between the high contracting parties in the order in which they deposit their respective ratifications.

Article 4

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining high contracting parties.

Article 5

The present convention shall be open for the adherence and accession of the states which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other high contracting parties.

In witness whereof, the following plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the City of Montevideo Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

RESERVATIONS

The delegation of Honduras adheres to the Convention on Equality of Nationality, with the reservations and limitations which the Constitution and laws of our country determine.

The delegation of the United States of America, in signing the Convention on the Nationality of Women, makes the reservation that the agreement on the part of the United States is, of course and of necessity, subject to Congressional action.

Reservation to the effect that in El Salvador the convention cannot be the object of immediate ratification, but that it will be necessary to consider previously the desirability of reforming the existing Naturalization Law, ratification being obtained only in the event that such legislative reform is undertaken and after it may have been effected.

CONVENTION ON NATIONALITY

The governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Nationality, have appointed the following plenipotentiaries:

[For names of the plenipotentiaries, see Final Act, pp. 52, *supra*.]

Who, after having exhibited their full powers, which were found in good and due form, have agreed upon the following:

Article 1

Naturalization of an individual before the competent authorities of any of the signatory states carries with it the loss of the nationality of origin.

Article 2

The state bestowing naturalization shall communicate this fact through diplomatic channels to the state of which the naturalized individual was a national.

Article 3

The provisions of the preceding articles do not revoke or modify the convention on naturalization signed in Rio de Janeiro the 13th of August, 1906.[1]

Article 4

In case of the transfer of a portion of territory on the part of one of the states signatory hereof to another of such states, the inhabitants of such transferred territory must not consider themselves as nationals of the state to which they are transferred, unless they expressly opt to change their original nationality.

Article 5

Naturalization confers nationality solely on the naturalized individual and the loss of nationality, whatever shall be the form in which it takes place, affects only the person who has suffered the loss.

Article 6

Neither matrimony nor its dissolution affects the nationality of the husband or wife or of their children.

Article 7

The present convention shall not affect obligations previously entered into by the high contracting parties by virtue of international agreements.

Article 8

The present convention shall be ratified by the high contracting parties in conformity with their respective constitutional procedures. The Minister of

[1] Printed in this JOURNAL, Supplement, Vol. 7 (1913), p. 226.

Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 9

The present convention will enter into force between the high contracting parties in the order in which they deposit their respective ratifications.

Article 10

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall communicate it to the other signatory governments. After the expiration of this period the convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining high contracting parties.

Article 11

The present convention shall be open to the adherence and accession of the states which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other high contracting parties.

In witness whereof, the following plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

RESERVATIONS

Reservation to the effect that in El Salvador the convention cannot be the object of immediate ratification, but that it will be necessary to consider previously the desirability of reforming the existing Naturalization Law, ratification being obtained only in the event that such legislative reform is undertaken, and after it may have been effected.

The delegation of the Dominican Republic makes the following reservations: With respect to Articles 1 and 2, as the Constitution of the state provides that: "No Dominican may claim condition of alien through naturalization nor for any other cause," and with respect to Article 6 understands that likewise it does not affect constitutional provisions in force for Dominican women marrying aliens.

The delegation of Uruguay, which voted affirmatively on the project on Nationality approved in the plenary session of Committee 2, declares that it cannot accept Article 1, as it is not in harmony with principles of the internal legislation of Uruguay.

Mexico signs the Convention on Nationality with reservations covering Articles 5 and 6.

CONVENTION ON EXTRADITION

The governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Extradition, have appointed the following plenipotentiaries:

[For names of the plenipotentiaries, see Final Act, pp. 52, *supra.*]

Who, after having exhibited their full powers, which were found in good and due form, have agreed upon the following:

Article 1

Each one of the signatory states in harmony with the stipulations of the present convention assumes the obligation of surrendering to any one of the states which may make the requisition, the persons who may be in their territory and who are accused or under sentence. This right shall be claimed only under the following circumstances:

(a) That the demanding state have the jurisdiction to try and to punish the delinquency which is attributed to the individual whom it desires to extradite.

(b) That the act for which extradition is sought constitutes a crime and is punishable under the laws of the demanding and surrendering states with a minimum penalty of imprisonment for one year.

Article 2

When the person whose extradition is sought is a citizen of the country to which the requisition is addressed, his delivery may or may not be made, as the legislation or circumstances of the case may, in the judgment of the surrendering state, determine. If the accused is not surrendered, the latter state is obliged to bring action against him for the crime with which he is accused, if such crime meets the conditions established in sub-article (b) of the previous article. The sentence pronounced shall be communicated to the demanding state.

Article 3

The surrendering state shall not be obligated to grant extradition:

(a) When, previous to the arrest of the accused person, the penal action or sentence has expired according to the laws of the demanding or the surrendering state.

(b) When the accused has served his sentence in the country where the crime was committed or when he may have been pardoned or granted an amnesty.

(c) When the accused has been or is being tried by the state to which the requisition was directed for the act with which he is charged and on which the petition of extradition is based.

(d) When the accused must appear before any extraordinary tribunal or court of the demanding state (*tribunal o juzgado de excepción del estado requiriente*). Military courts will not be considered as such tribunals.

(e) When the offense is of a political nature or of a character related thereto. An attempt against the life or person of the chief of state or members of his family, shall not be deemed to be a political offense.

(f) When the offense is purely military or directed against religion.

Article 4

The determination of whether or not the exceptions referred to in the previous article are applicable shall belong exclusively to the state to which the request for extradition is addressed.

Article 5

A request for extradition should be formulated by the respective diplomatic representative. When no such representative is available, consular agents may serve, or the governments may communicate directly with one another. The following documents in the language of the country to which the request for extradition is directed, shall accompany every such request:

(a) An authentic copy of the sentence, when the accused has been tried and condemned by the courts of the demanding state.

(b) When the person is only under accusation, an authentic copy of the order of detention issued by the competent judge, with a precise description of the imputed offense, a copy of the penal laws applicable thereto, and a copy of the laws referring to the prescription of the action or the penalty.

(c) In the case of an individual under accusation as also of an individual already condemned, there shall be furnished all possible information of a personal character which may help to identify the individual whose extradition is sought.

Article 3

When a person whose extradition is sought shall be under trial or shall be already condemned in the state from which it is sought to extradite him, for an offense committed prior to the request for extradition, said extradition shall be granted at once, but the surrender of the accused to the demanding state shall be deferred until his trial ends or his sentence is served.

Article 7

When the extradition of a person is sought by several states for the same offense, preference will be given to the state in whose territory said offense was committed. If he is sought for several offenses, preference will be given

to the state within whose bounds shall have been committed the offense which has the greatest penalty according to the law of the surrendering state.

If the case is one of different acts which the state from which extradition is sought esteems of equal gravity, the preference will be determined by the priority of the request.

Article 8

The request for extradition shall be determined in accordance with the domestic legislation of the surrendering state and the individual whose extradition is sought shall have the right to use all the remedies and resources authorized by such legislation, either before the judiciary or the administrative authorities as may be provided for by the aforesaid legislation.

Article 9

Once a request for extradition in the form indicated in Article 5 has been received, the state from which the extradition is sought will exhaust all necessary measures for the capture of the person whose extradition is requested.

Article 10

The requesting state may ask, by any means of communication, the provisional or preventive detention of a person, if there is, at least, an order by some court for his detention and if the state at the same time offers to request extradition in due course. The state from which the extradition is sought will order the immediate arrest of the accused. If within a maximum period of two months after the requesting state has been notified of the arrest of the person, said state has not formally applied for extradition, the detained person will be set at liberty and his extradition may not again be requested except in the way established by Article 5.

The demanding state is exclusively liable for any damages which might arise from the provisional or preventive detention of a person.

Article 11

Extradition having been granted and the person requested put at the disposition of the diplomatic agent of the demanding state, then, if, within two months from the time when said agent is notified of same, the person has not been sent to his destination, he will be set at liberty, and he cannot again be detained for the same cause.

The period of two months will be reduced to forty days when the countries concerned are contiminous.

Article 12

Once extradition of a person has been refused, application may not again be made for the same alleged act.

Article 13

The state requesting the extradition may designate one or more guards for the purpose of taking charge of the person extradited, but said guards will be subject to the orders of the police or other authorities of the state granting the extradition or of the states in transit.

Article 14

The surrender of the person extradited to the requesting state will be done at the most appropriate point on the frontier or in the most accessible port, if the transfer is to be made by water.

Article 15

The objects found in the possession of the person extradited, obtained by the perpetration of the illegal act for which extradition is requested, or which might be useful as evidence of same, will be confiscated and handed over to the demanding country, notwithstanding it might not be possible to surrender the accused because of some unusual situation such as his escape or death.

Article 16

The costs of arrest, custody, maintenance, and transportation of the person as well as of the objects referred to in the preceding article, will be borne by the state granting the extradition up to the moment of surrender and from thereon they will be borne by the demanding state.

Article 17

Once the extradition is granted, the demanding state undertakes:

(a) Not to try nor to punish the person for a common offense which was committed previous to the request for extradition and which has not been included in said request, except only if the interested party expressly consents.
(b) Not to try nor to punish the person for a political offense, or for an offense connected with a political offense, committed previous to the request for extradition.
(c) To apply to the accused the punishment of next lesser degree than death if according to the legislation of the country of refuge, the death penalty would not be applicable.
(d) To furnish to the state granting the extradition an authentic copy of the sentence pronounced.

Article 18

The signatory states undertake to permit the transit through their respective territories of any person whose extradition has been granted by another state in favor of a third, requiring only the original or an authentic copy of the agreement by which the country of refuge granted the extradition.

Article 19

No request for extradition may be based upon the stipulations of this convention if the offense in question has been committed before the ratification of the convention is deposited.

Article 20

The present convention will be ratified by means of the legal forms in common use in each of the signatory states, and will come into force, for each of them, thirty days after the deposit of the respective ratification with the Pan American Union. This should be done as soon as possible.

Article 21

The present convention does not abrogate or modify the bilateral or collective treaties, which at the present date are in force between the signatory states. Nevertheless, if any of said treaties lapse, the present convention will take effect and become applicable immediately among the respective states, if each of them has fulfilled the stipulations of the preceding article.

In witness whereof, the following plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

RESERVATIONS

The delegation of the United States of America, in signing the present extradition convention, reserves the following articles:

Article 2 (second sentence, English text);

Article 3, paragraph 1;

Articles 12, 15, 16 and 18.

Reservation to the effect that El Salvador, although it accepts in general principle Article XVIII of the Inter-American Treaty of Extradition, concretely stipulates the exception that it cannot coöperate in the surrender of its own nationals, prohibited by its Political Constitution, by permitting the transit through its territory of said nationals when one foreign state surrenders them to another.

Mexico signs the Convention on Extradition with the declaration with respect to Article 3, paragraph f, that the internal legislation of Mexico does not recognize offenses against religion. It will not sign the optional clause of this convention.

OPTIONAL CLAUSE

The states signing this clause, notwithstanding Article 2 of the preceding Convention on Extradition, agree among themselves that in no case will the nationality of the criminal be permitted to impede his extradition.

The present clause is open to those states signing said Treaty of Extradition, which desire to be ruled by it in the future, for which purpose it will be sufficient to communicate their adherence to the Pan American Union.

CONVENTION ON POLITICAL ASYLUM

The governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Political Asylum, to define the terms of the one signed at Habana, have appointed the following plenipotentiaries:

[For names of the plenipotentiaries, see Final Act, pp. 52, *supra.*]

Who, after having exhibited their full powers, which were found in good and due form, have agreed upon the following:

Article 1

In place of Article 1 of the Convention of Habana on Right of Asylum, of February 20, 1928,[1] the following is substituted:

"It shall not be lawful for the states to grant asylum in legations, warships, military camps, or airships to those accused of common offenses who may have been duly prosecuted or who may have been sentenced by ordinary courts of justice, nor to deserters of land or sea forces.

"The persons referred to in the preceding paragraph who find refuge in some of the above-mentioned places shall be surrendered as soon as requested by the local government."

Article 2

The judgment of political delinquency concerns the state which offers asylum.

Article 3

Political asylum, as an institution of humanitarian character, is not subject to reciprocity. Any man may resort to its protection, whatever his nationality, without prejudice to the obligations accepted by the state to which he belongs; however, the states that do not recognize political asylum, except with limitations and peculiarities, can exercise it in foreign countries only in the manner and within the limits recognized by said countries.

Article 4

When the withdrawal of a diplomatic agent is requested because of the discussions that may have arisen in some case of political asylum, the diplomatic agent shall be replaced by his government, and his withdrawal shall not determine a breach of diplomatic relations between the two states.

Article 5

The present convention shall not affect obligations previously entered into by the high contracting parties by virtue of international agreements.

Article 6

The present convention shall be ratified by the high contracting parties in conformity with their respective constitutional procedures. The Minister of

[1] Printed in this JOURNAL, Supplement, Vol. 22 (1928), p. 158.

Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 7

The present convention will enter into force between the high contracting parties in the order in which they deposit their respective ratifications.

Article 8

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the convention shall cease in its effect for the remaining high contracting parties.

Article 9

The present convention shall be open for the adherence and accession of the states which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other high contracting parties.

In witness whereof, the following plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the City of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

DECLARATION

Since the United States of America does not recognize or subscribe to, as part of international law, the doctrine of asylum, the delegation of the United States of America refrains from signing the present Convention on Political Asylum.

CONVENTION ON THE TEACHING OF HISTORY

The governments represented in the Seventh International Conference of American States, considering:

That it is necessary to complement the political and juridical organization of peace with the moral disarmament of peoples, by means of the revision of text books in use in the several countries;

That the need of effecting this corrective labor has been recognized by the Pan American Scientific Congress of Lima (1924), the National History Congress of Montevideo (1928), the Congress of History of Buenos Aires (1929), the Congress of History of Bogotá (1930), the Second National History Con-

gress of Rio de Janeiro (1931), the American University Congress of Montevideo (1931), and by the adoption of measures in this respect by several American Governments, and that, the United States of Brazil, and the Argentine and Uruguayan Republics, evidencing their deep desire for international peace and understanding, have recently subscribed to agreements for the revision of their text books of history and geography;

Have appointed as their plenipotentiaries:

[For names of the plenipotentiaries see Final Act, pp. 52, *supra*.]

Who, after having exchanged their full powers, which were found in good and proper form, have agreed to the following:

Article I

To revise the text books adopted for instruction in their respective countries, with the object of eliminating from them whatever might tend to arouse in the immature mind of youth aversion to any American country.

Article II

To review periodically the text books adopted for instruction on the several subjects, in order to harmonize them with most recent statistical and general information so that they shall convey the most accurate data respecting the wealth and productive capacity of the American Republics.

Article III

To found an "Institute for the Teaching of History" of the American Republics, to be located in Buenos Aires, and to be responsible for the coördination and inter-American realization of the purposes described, and whose ends shall be to recommend:

(a) That each American Republic foster the teaching of the history of the others,

(b) That greater attention be given to the history of Spain, Portugal, Great Britain and France, and of any other non-American country in respect to matters of major interest to the history of America.

(c) That the nations endeavor to prevent the inclusion, in educational programs and handbooks on history, of unfriendly references to other countries or of errors that may have been dispelled by historical criticism.

(d) That the bellicose emphasis in handbooks on history be lessened and that the study of the culture of the peoples, and the universal development of civilization of each country made by foreigners and by other nations, be urged.

(e) That annoying comparisons between national and foreign historical characters, and also belittling and offensive comments regarding other countries, be deleted from text books.

(f) That the narration of victories over other nations shall not be used as the basis for a deprecatory estimate of the defeated people.
(g) That facts in the narration of wars and battles whose results may have been adverse, be not appraised with hatred, or distorted.
(h) That emphasis be placed upon whatever may contribute constructively to understanding and coöperation among the American countries.

In the fulfillment of the important educational functions committed to it, the Institute for the Teaching of History shall maintain close affiliation with the Pan American Institute of Geography and History, established as an organ of coöperation between the Geographic and Historic Institutes of the Americas, of Mexico City, and with other bodies whose ends are similar to its own.

Article 4

The present convention shall not affect obligations previously entered into by the high contracting parties by virtue of international agreements.

Article 5

The present convention shall be ratified by the high contracting parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 6

The present convention will enter into force between the high contracting parties in the order in which they deposit their respective ratifications.

Article 7

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory government. After the expiration of this period the convention shall cease in its effect for the remaining high contracting parties.

Article 8

The present convention shall be open for the adherence and accession of the states which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other high contracting parties.

In witness whereof, the following plenipotentiaries have signed this conven-

tion in Spanish, English, Portuguese and French and hereunto affix their respective seals in the City of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

STATEMENT OF THE DELEGATION OF THE UNITED STATES OF AMERICA

The United States heartily applauds this initiative and desires to record its deep sympathy with every measure which tends to encourage the teaching of the history of the American nations, and particularly the purification of the texts of history books correcting errors, freeing them from bias and prejudice, and eliminating matter which might tend to engender hatred between nations. The delegation of the United States of America desire to point out, however, that the system of education in the United States differs from that in other countries of the Americas in that it lies entirely outside the sphere of activity of the Federal Government and is supported and administrated by the State and municipal authorities and by private institutions and individuals. The Conference will appreciate, therefore, the constitutional inability of the delegation to sign this convention.

ADDITIONAL PROTOCOL

TO THE GENERAL CONVENTION OF INTER-AMERICAN CONCILIATION

The high contracting parties of the General Convention of Inter-American Conciliation of the 5th of January, 1929,[1] convinced of the undeniable advantage of giving a permanent character to the Commissions of Investigation and Conciliation to which Article 2 of said convention refers, agree to add to the aforementioned convention the following and additional protocol.

Article 1

Each country signatory to the treaty signed in Santiago, Chile, the 3rd of May, 1923,[2] shall name, as soon as possible, by means of a bilateral agreement which shall be recorded in a simple exchange of notes with each one of the other signatories of the aforementioned treaty, those members of the various commissions provided for in Article 1 of said treaty. The commissions so named shall have a permanent character and shall be called Commissions of Investigation and Conciliation.

Article 2

Any of the contracting parties may replace the members which have been designated, whether they be nationals or foreigners; but, at the same time, the substitute shall be named. In case the substitution is not made, the replacement shall not be effective.

Article 3

The commissions organized in fulfillment of Article 3 of the aforementioned treaty of Santiago, Chile, shall be called Permanent Diplomatic Commissions of Investigation and Conciliation.

[1] Printed in this JOURNAL, Supplement, Vol. 23 (1929), p. 76.

[2] *Ibid.*, Vol. 21 (1927), p. 101.

Article 4

To secure the immediate organization of the commissions mentioned in the first article hereof, the high contracting parties engage themselves to notify the Pan American Union at the time of the deposit of the ratification of the present Additional Protocol in the Ministry of Foreign Relations of the Republic of Chile, the names of the two members whose designation they are empowered to make by Article 4 of the Convention at Santiago, Chile, and said members, so named, shall constitute the members of the commissions which are to be organized with bilateral character in accordance with this protocol.

Article 5

It shall be left to the Governing Board of the Pan American Union to initiate measures for bringing about the nomination of the fifth member of each Commission of Investigation and Conciliation in accordance with the stipulation established in Article 4 of the Convention at Santiago, Chile.

Article 6

In view of the character which this protocol has as an addition to the Convention of Conciliation of Washington, of January 5, 1929, the provision of Article 16 of said convention shall be applied thereto.

In witness whereof, the plenipotentiaries hereinafter indicated, have set their hands and their seals to this Additional Protocol in English, Spanish, Portuguese and French, in the City of Montevideo, Republic of Uruguay, this twenty-sixth day of the month of December in the year nineteen hundred and thirty-three.

[Signatures omitted from this provisional edition.]

CONVENTION ON RIGHTS AND DUTIES OF STATES

The governments represented in the Seventh International Conference of American States

Wishing to conclude a Convention on Rights and Duties of States, have appointed the following plenipotentiaries:

[For names of the plenipotentiaries, see Final Act, pp. 52, *supra*.]

Who, after having exhibited their full powers, which were found to be in good and due order, have agreed upon the following:

Article 1

The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.

Article 2

The federal state shall constitute a sole person in the eyes of international law.

Article 3

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

Article 4

States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.

Article 5

The fundamental rights of states are not susceptible of being affected in any manner whatsoever.

Article 6

The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable.

Article 7

The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

Article 8

No state has the right to intervene in the internal or external affairs of another.

Article 9

The jurisdiction of states within the limits of national territory applies to all the inhabitants.

Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals.

Article 10

The primary interest of states is the conservation of peace. Differences of any claims which arise between them should be settled by recognized pacific methods.

Article 11

The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consist in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure. The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

Article 12

The present convention shall not affect obligations previously entered into by the high contracting parties by virtue of international agreements.

Article 13

The present convention shall be ratified by the high contracting parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 14

The present convention will enter into force between the high contracting parties in the order in which they deposit their respective ratifications.

Article 15

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining high contracting parties.

Article 16

The present convention shall be open for the adherence and accession of the states which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other high contracting parties.

In witness whereof, the following plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their

respective seals in the City of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

[Signatures omitted from this provisional edition.]

RESERVATIONS

The delegation of the United States of America in signing the Convention on the Rights and Duties of States, does so with the express reservation presented to the plenary session of the Conference on December 22, 1933, which reservation reads as follows:

The delegation of the United States, in voting "Yes" on the final vote on this committee recommendation and proposal, makes the same reservation to the eleven articles of the project or proposal that the United States delegation made to the first ten articles during the final vote in the full commission, which reservation is in words as follows:

"The policy and attitude of the United States Government toward every important phase of international relationships in this hemisphere could scarcely be made more clear and definite than they have been made by both word and action especially since March 4. I have no disposition therefore to indulge in any repetition or rehearsal of these acts and utterances and shall not do so. Every observing person must by this time thoroughly understand that under the Roosevelt administration the United States Government is as much opposed as any other government to interference with the freedom, the sovereignty, or other internal affairs or processes of the governments of other nations.

"In addition to numerous acts and utterances in connection with the carrying out of these doctrines and policies, President Roosevelt, during recent weeks, gave out a public statement expressing his disposition to open negotiations with the Cuban Government for the purpose of dealing with the treaty which has existed since 1903. I feel safe in undertaking to say that under our support of the general principle of non-intervention as has been suggested, no government need fear any intervention on the part of the United States under the Roosevelt administration. I think it unfortunate that during the brief period of this Conference there is apparently not time within which to prepare interpretations and definitions of these fundamental terms that are embraced in the report. Such definitions and interpretations would enable every government to proceed in a uniform way without any difference of opinion or of interpretations. I hope that at the earliest possible date such very important work will be done. In the meantime in case of differences of interpretations and also until they (the proposed doctrines and principles) can be worked out and codified for the common use of every government I desire to say that the United States Government in all of its international associations and relationships and conduct will follow scrupulously the doctrines and policies which it has pursued since March 4 which are embodied in the different addresses of President Roosevelt since that time and in the recent peace address of myself on the 15th day of December before this Conference and in the law of nations as generally recognized and accepted."

The delegates of Brazil and Peru recorded the following private vote with regard to Article 11: "That they accept the doctrine in principle but that they do not consider it codifiable because there are some countries which have not yet signed the Anti-War Pact of Rio de Janeiro of which this doctrine is a part and therefore it does not yet constitute positive international law suitable for codification."

ANTI-WAR TREATY
ON NON-AGGRESSION AND CONCILIATION[1]

Signed at Rio de Janeiro, October 10, 1933

[Translation]

The states designated below, in the desire to contribute to the consolidation of peace, and to express their adherence to the efforts made by all civilized nations to promote the spirit of universal harmony;

To the end of condemning wars of aggression and territorial acquisitions that may be obtained by armed conquest, making them impossible and establishing their invalidity through the positive provisions of this treaty, and in order to replace them with pacific solutions based on lofty concepts of justice and equity;

Convinced that one of the most effective means of assuring the moral and material benefits which peace offers to the world, is the organization of a permanent system of conciliation for international disputes, to be applied immediately on the violation of the principles mentioned;

Have decided to put these aims of non-aggression and concord in conventional form, by concluding the present treaty, to which end they have appointed the undersigned plenipotentiaries, who, having exhibited their respective full powers, found to be in good and due form, have agreed upon the following:

Article I

The high contracting parties solemnly declare that they condemn wars of aggression in their mutual relations or those with other states, and that the settlement of disputes or controversies of any kind that may arise among them shall be effected only by the pacific means which have the sanction of international law.

Article II

They declare that as between the high contracting parties, territorial questions must not be settled by violence, and that they will not recognize any territorial arrangement which is not obtained by pacific means, nor the validity of the occupation or acquisition of territories that may be brought about by force of arms.

Article III

In case of noncompliance by any state engaged in a dispute, with the obligations contained in the foregoing articles, the contracting states undertake to make every effort for the maintenance of peace. To that end they will

[1] Press release, Dept. of State, April 28, 1934.

adopt in their character as neutrals a common and solidary attitude; they will exercise the political, juridical or economic means authorized by international law; they will bring the influence of public opinion to bear but will in no case resort to intervention either diplomatic or armed; subject to the attitude that may be incumbent on them by virtue of other collective treaties to which such states are signatories.

ARTICLE IV

The high contracting parties obligate themselves to submit to the conciliation procedure established by this treaty the disputes specially mentioned and any others that may arise in their reciprocal relations, without further limitations than those enumerated in the following article, in all controversies which it has not been possible to settle by diplomatic means within a reasonable period of time.

ARTICLE V

The high contracting parties and the states which may in the future adhere to this treaty, may not formulate at the time of signature, ratification or adherence, other limitations to the conciliation procedure than those which are indicated below:

(a) Differences for the solution of which treaties, conventions, pacts or pacific agreements of any kind whatever may have been concluded, which in no case shall be considered as annulled by this agreement, but supplemented thereby in so far as they tend to assure peace; as well as the questions or matters settled by previous treaties;

(b) Disputes which the parties prefer to solve by direct settlement or submit by common agreement to an arbitral or judicial solution;

(c) Questions which international law leaves to the exclusive competence of each state, under its constitutional system, for which reason the parties may object to their being submitted to the conciliation procedure before the national or local jurisdiction has decided definitively; except in the case of manifest denial or delay of justice, in which case the conciliation procedure shall be initiated within a year at the latest;

(d) Matters which affect constitutional precepts of the parties to the controversy. In case of doubt, each party shall obtain the reasoned opinion of its respective tribunal or supreme court of justice, if the latter should be invested with such powers.

The high contracting parties may communicate, at any time and in the manner provided for by Article XV, an instrument stating that they have abandoned wholly or in part the limitations established by them in the conciliation procedure.

The effect of the limitations formulated by one of the contracting parties shall be that the other parties shall not consider themselves obligated in regard to that party save in the measure of the exceptions established.

ARTICLE VI

In the absence of a permanent conciliation commission or of some other international organization charged with this mission by virtue of previous treaties in effect, the high contracting parties undertake to submit their differences to the examination and investigation of a Conciliation Commission which shall be formed as follows, unless there is an agreement to the contrary of the parties in each case:

The Conciliation Commission shall consist of five members. Each party to the controversy shall designate a member who may be chosen by it from among its own nationals. The three remaining members shall be designated by common agreement by the parties from among the nationals of third Powers, who must be of different nationalities, must not have their customary residence in the territory of the interested parties nor be in the service of any of them. The parties shall choose the president of the Conciliation Commission from among the said three members.

If they cannot arrive at an agreement with regard to such designations, they may entrust the selection thereof to a third Power or to some other existing international organism. If the candidates so designated are rejected by the parties or by any one of them, each party shall present a list of candidates equal in number to that of the members to be selected, and the names of those to sit on the Conciliation Commission shall be determined by lot.

ARTICLE VII

The tribunals or supreme courts of justice which, in accordance with the domestic legislation of each state, may be competent to interpret, in the last or the sole instance and in matters under their respective jurisdiction, the Constitution, treaties, or the general principles of the law of nations, may be designated preferentially by the high contracting parties to discharge the duties entrusted by the present treaty to the Conciliation Commission. In this case the tribunal or court may be constituted by the whole bench or may designate some of its members to proceed alone or by forming a mixed commission with members of other courts or tribunals, as may be agreed upon by common accord between the parties to the dispute.

ARTICLE VIII

The Conciliation Commission shall establish its own rules of procedure, which shall provide in all cases for hearing both sides.

The parties to the controversy may furnish and the commission may require from them all the antecedents and information necessary. The parties may have themselves represented by delegates and assisted by advisers or experts, and also present evidence of all kinds.

ARTICLE IX

The labors and deliberations of the Conciliation Commission shall not be made public except by a decision of its own to that effect, with the assent of the parties.

In the absence of any stipulations to the contrary, the decisions of the commission shall be made by a majority vote but the commission may not pronounce judgment on the substance of the case except in the presence of all its members.

ARTICLE X

It is the duty of the commission to secure the conciliatory settlement of the disputes submitted to its consideration.

After an impartial study of the questions in dispute, it shall set forth in a report the outcome of its work and shall propose to the parties bases of settlement by means of a just and equitable solution.

The report of the commission shall in no case have the character of a final decision or arbitral award either with respect to the exposition or the interpretation of the facts, or with regard to the considerations or conclusions of law.

ARTICLE XI

The Conciliation Commission must present its report within one year counting from its first meeting unless the parties should decide by common agreement to shorten or extend this period.

The conciliation procedure having been once begun may be interrupted only by a direct settlement between the parties or by their subsequent decision to submit the dispute by common accord to arbitration or to international justice.

ARTICLE XII

In communicating its report to the parties, the Conciliation Commission shall fix for them a period which shall not exceed six months, within which they must decide as to the bases of the settlement it has proposed. On the expiration of this term, the commission shall record in a final act the decision of the parties.

This period having expired without acceptance of the settlement by the parties, or the adoption by common accord of another friendly solution, the parties to the dispute shall regain their freedom of action to proceed as they may see fit within the limitations flowing from Articles I and II of this treaty.

ARTICLE XIII

From the initiation of the conciliatory procedure until the expiration of the period fixed by the commission for the parties to make a decision, they must abstain from any measure prejudicial to the execution of the agreement that

may be proposed by the commission and, in general, from any act capable of aggravating or prolonging the controversy.

ARTICLE XIV

During the conciliation procedure the members of the commission shall receive honoraria the amount of which shall be established by common agreement by the parties to the controversy. Each of them shall bear its own expenses, and a moiety of the joint expenses or honoraria.

ARTICLE XV

The present treaty shall be ratified by the high contracting parties as soon as possible, in accordance with their respective constitutional procedures.

The original treaty and the instruments of ratification shall be deposited in the Ministry of Foreign Relations and Worship, of the Argentine Republic, which shall communicate the ratifications to the other signatory states. The treaty shall go into effect between the high contracting parties thirty days after the deposit of the respective ratifications, and in the order in which they are effected.

ARTICLE XVI

This treaty shall remain open to the adherence of all states.

Adherence shall be effected by the deposit of the respective instrument in the Ministry of Foreign Relations and Worship of the Argentine Republic, which shall give notice thereof to the other interested states.

ARTICLE XVII

The present treaty is concluded for an indefinite time, but may be denounced by one year's notice, on the expiration of which the effects thereof shall cease for the denouncing state, and remain in force for the other states which are parties thereto, by signature or adherence.

The denunciation shall be addressed to the Ministry of Foreign Relations and Worship, of the Argentine Republic, which shall transmit it to the other interested states.

In witness whereof, the respective plenipotentiaries sign the present treaty in one copy, in the Spanish and Portuguese languages, and affix their seals thereto at Rio de Janeiro, D. F., on the tenth day of the month of October one thousand nine hundred thirty and three.

For the Argentine Republic:
(L. S.) CARLOS SAAVEDRA LAMAS,
Minister of Foreign Relations and Worship.

For the Republic of the United States of Brazil:
(L. S.) AFRANIO DE MELLO FRANCO,
Minister of Foreign Relations.

For the Republic of Chile: with the reservations under letters a, b, c, and d of Article V:
(L. S.) MARCIAL MARTÍNEZ DE FARRARI,
Ambassador Extraordinary and Plenipotentiary at Rio de Janeiro.

For the United Mexican States:
(L. S.) ALFONSO REYES,
Ambassador Extraordinary and Plenipotentiary at Rio de Janeiro.
For the Republic of Paraguay:
(L. S.) ROGELIO IBARRA,
Envoy Extraordinary and Minister Plenipotentiary at Rio de Janeiro.
For the Oriental Republic of Uruguay:
(L. S.) JUAN CARLOS BLANCO,
Ambassador Extraordinary and Plenipotentiary at Rio de Janeiro.

ADHERED to by Bolivia, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, the United States of America, and Venezuela, April 27, 1934; by Italy, March 14, 1934. Adherence by the United States advised and consented to by the Senate June 15, 1934, subject to the following reservation: 'In adhering to this treaty the United States does not thereby waive any rights it may have under other treaties or conventions or under international law' (Congressional Record, June 15, 1934.)

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR [1]

Signed at Warsaw, Oct. 12, 1929; in force Feb. 13, 1933 [2]

The President of the German Reich, the Federal President of the Republic of Austria, His Majesty the King of the Belgians, the President of the United States of Brazil, His Majesty the King of the Bulgarians, the President of the Nationalist Government of China, His Majesty the King of Denmark and Iceland, His Majesty the King of Egypt, His Majesty the King of Spain, the Chief of State of the Republic of Estonia, the President of the Republic of Finland, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, the President of the Hellenic Republic, His Most Serene Highness the Regent of the Kingdom of Hungary, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Latvia, Her Royal Highness the Grand Duchess of Luxembourg, the President of the United Mexican States, His Majesty the King of Norway, Her Majesty the Queen of the Netherlands, the President of the Republic of Poland, His Majesty the King of Rumania, His Majesty the King of Sweden, the Swiss Federal Council, the President of the Czechoslovak Republic, the Central Executive Committee of the Union of Soviet Socialist Republics, the President of the United States of Venezuela, His Majesty the King of Yugoslavia:

[1] U. S. Treaty Information Bulletin No. 54, March, 1934, pp. 17–33.

[2] Ratifications deposited at Warsaw by: Spain, March 31, 1930; Brazil, May 2, 1931; Yugoslavia, May 27, 1931; Rumania, July 3, 1931; France, Latvia and Poland, Nov. 15, 1932; Great Britain and Northern Ireland, and Italy, Feb. 14, 1933; The Netherlands, including Netherlands Indies, Surinam and Curaçao, July 1, 1933.
Accession by Mexico, Feb. 14, 1933.

Having recognized the advantage of regulating in a uniform manner the conditions of international transportation by air in respect of the documents used for such transportation and of the liability of the carrier,

Have nominated to this end their respective plenipotentiaries, who, being thereto duly authorized, have concluded and signed the following convention:

CHAPTER I.—SCOPE—DEFINITIONS

ARTICLE I

(1) This convention shall apply to all international transportation of persons, baggage or goods performed by aircraft for hire. It shall apply equally to gratuitous transportation by aircraft performed by an air transportation enterprise.

(2) For the purposes of this convention the expression "international transportation" shall mean any transportation in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the transportation or a transshipment, are situated either within the territories of two high contracting parties, or within the territory of a single high contracting party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this convention. Transportation without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same high contracting party shall not be deemed to be international for the purposes of this convention.

(3) Transportation to be performed by several successive air carriers shall be deemed, for the purposes of this convention, to be one undivided transportation, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same high contracting party

ARTICLE II

(1) This convention shall apply to transportation performed by the state or by legal entities constituted under public law provided it falls within the conditions laid down in Article 1.

(2) This convention shall not apply to transportation performed under the terms of any international postal convention.

CHAPTER II.—TRANSPORTATION DOCUMENTS

Section 1—Passenger Ticket

ARTICLE III

(1) For the transportation of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(*a*) the place and date of issue
(*b*) the place of departure and of destination;
(*c*) the agreed stopping places provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the transportation of its international character;
(*d*) the name and address of the carrier or carriers;
(*e*) a statement that the transportation is subject to the rules relating to liability established by this convention.

(2) The absence, irregularity or loss of the passenger ticket shall not affect the existence or the validity of the contract of transportation, which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this convention which exclude or limit his liability.

Section 2.—Baggage Check

ARTICLE IV

(1) For the transportation of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

(2) The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The baggage check shall contain the following particulars:

(*a*) the place and date of issue;
(*b*) the place of departure and of destination;
(*c*) the name and address of the carrier or carriers;
(*d*) the number of the passenger ticket;
(*e*) a statement that delivery of the baggage will be made to the bearer of the baggage check;
(*f*) the number and weight of the packages;
(*g*) the amount of the value declared in accordance with Article 22 (2);
(*h*) a statement that the transportation is subject to the rules relating to liability established by this convention.

(4) The absence, irregularity or loss of the baggage check shall not affect the existence or the validity of the contract of transportation which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (*d*), (*f*) and (*h*) above, the carrier shall not be entitled to avail himself of those provisions of the convention which exclude or limit his liability.

Section 3.—Air Waybill

ARTICLE V

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document shall not affect the existence or the validity of the contract of transportation which shall, subject to the provisions of Article 9, be none the less governed by the rules of this convention.

ARTICLE VI

(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier," and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

ARTICLE VII

The carrier of goods has the right to require the consignor to make out separate waybills when there is more than one package.

ARTICLE VIII

The air waybill shall contain the following particulars:

(*a*) the place and date of its execution;
(*b*) the place of departure and of destination;
(*c*) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the transportation of its international character;
(*d*) the name and address of the consignor;
(*e*) the name and address of the first carrier;
(*f*) the name and address of the consignee, if the case so requires;
(*g*) the nature of the goods;
(*h*) the number of packages, the method of packing and the particular marks or numbers upon them;

(*i*) the weight, the quantity, the volume or dimensions of the goods;
(*j*) the apparent condition of the goods and of the packing;
(*k*) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
(*l*) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
(*m*) the amount of the value declared in accordance with Article 22 (2);
(*n*) the number of parts of the air waybill;
(*o*) the documents handed to the carrier to accompany the air waybill;
(*p*) the time fixed for the completion of the transportation and a brief note of the route to be followed, if these matters have been agreed upon;
(*q*) a statement that the transportation is subject to the rules relating to liability established by this convention.

ARTICLE IX

If the carrier accepts goods without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in Article 8 (*a*) to (*i*) inclusive and (*q*), the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

ARTICLE X

(1) The consignor shall be responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air waybill.

(2) The consignor shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

ARTICLE XI

(1) The air waybill shall be *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of transportation.

(2) The statements in the air waybill relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, shall be *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods shall not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

ARTICLE XII

(1) Subject to his liability to carry out all his obligations under the contract of transportation, the consignor shall have the right to dispose of the goods by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for

them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor shall cease at the moment when that of the consignee begins in accordance with Article 13, below. Nevertheless, if the consignee declines to accept the waybill or the goods, or if he cannot be communicated with, the consignor shall resume his right of disposition.

Article XIII

(1) Except in the circumstances set out in the preceding article, the consignee shall be entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the goods to him, on payment of the charges due and on complying with the conditions of transportation set out in the air waybill.

(2) Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of transportation.

Article XIV

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article XV

(1) Articles 12, 13 and 14 shall not affect either the relations of the consignor and the consignee with each other or the relations of third parties whose rights are derived either from the carrier or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill.

ARTICLE XVI

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.—LIABILITY OF THE CARRIER

ARTICLE XVII

The carrier shall be liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

ARTICLE XVIII

(1) The carrier shall be liable for damage sustained in the event of the destruction or loss of, or of damage to, any checked baggage or any goods, if the occurrence which caused the damage so sustained took place during the transportation by air.

(2) The transportation by air within the meaning of the preceding paragraph shall comprise the period during which the baggage or goods are in charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport in any place whatsoever.

(3) The period of the transportation by air shall not extend to any transportation by land, by sea or by river performed outside an airport. If, however, such transportation takes place in the performance of a contract for transportation by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the transportation by air.

ARTICLE XIX

The carrier shall be liable for damage occasioned by delay in the transportation by air of passengers, baggage or goods.

ARTICLE XX

(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the transportation of goods and baggage the carrier shall not be

liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

ARTICLE XXI

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

ARTICLE XXII

(1) In the transportation of passengers the liability of the carrier for each passenger shall be limited to the sum of 125,000 francs. Where, in accordance with the law of the court to which the case is submitted, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the transportation of checked baggage and of goods, the liability of the carrier shall be limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier shall be limited to 5000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams of gold at the standard of fineness of nine hundred thousandths. These sums may be converted into any national currency in round figures.

ARTICLE XXIII

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this convention shall be null and void, but the nullity of any such provision shall not involve the nullity of the whole contract, which shall remain subject to the provisions of this convention.

ARTICLE XXIV

(1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this convention.

(2) In the cases covered by Article 17 the provisions of the preceding paragraph shall also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

ARTICLE XXV

(1) The carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the court to which the case is submitted, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused under the same circumstances by any agent of the carrier acting within the scope of his employment.

ARTICLE XXVI

(1) Receipt by the person entitled to the delivery of baggage or goods without complaint shall be *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of transportation.

(2) In case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of baggage and seven days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within fourteen days from the date on which the baggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of transportation or by separate notice in writing dispatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

ARTICLE XXVII

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this convention against those legally representing his estate.

ARTICLE XXVIII

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the high contracting parties, either before the court of the domicile of the carrier or of his principal place of business, or where he has a place of business through which the contract has been made, or before the court at the place of destination.

(2) Questions of procedure shall be governed by the law of the court to which the case is submitted.

ARTICLE XXIX

(1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or

from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted.

ARTICLE XXX

(1) In the case of transportation to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or goods shall be subject to the rules set out in this convention, and shall be deemed to be one of the contracting parties to the contract of transportation in so far as the contract deals with that part of the transportation which is performed under his supervision.

(2) In the case of transportation of this nature, the passenger or his representative can take action only against the carrier who performed the transportation during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or goods, the passenger or consignor shall have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery shall have a right of action against the last carrier, and further, each may take action against the carrier who performed the transportation during which the destruction, loss, damage or delay took place. These carriers shall be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV.—PROVISIONS RELATING TO COMBINED TRANSPORTATION

ARTICLE XXXI

(1) In the case of combined transportation performed partly by air and partly by any other mode of transportation, the provisions of this convention shall apply only to the transportation by air, provided that the transportation by air falls within the terms of Article 1.

(2) Nothing in this convention shall prevent the parties in the case of combined transportation from inserting in the document of air transportation conditions relating to other modes of transportation, provided that the provisions of this convention are observed as regards the transportation by air.

CHAPTER V.—GENERAL AND FINAL PROVISIONS

ARTICLE XXXII

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the transportation of goods arbitration clauses shall be allowed, sub-

ject to this convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

ARTICLE XXXIII

Nothing contained in this convention shall prevent the carrier either from refusing to enter into any contract of transportation or from making regulations which do not conflict with the provisions of this convention.

ARTICLE XXXIV

This convention shall not apply to international transportation by air performed by way of experimental trial by air navigation enterprises with the view to the establishment of regular lines of air navigation, nor shall it apply to transportation performed in extraordinary circumstances outside the normal scope of an air carrier's business.

ARTICLE XXXV

The expression "days" when used in this convention means current days, not working days.

ARTICLE XXXVI

This convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the high contracting parties.

ARTICLE XXXVII

(1) This convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which shall give notice of the deposit to the Government of each of the high contracting parties.

(2) As soon as this convention shall have been ratified by five of the high contracting parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the high contracting parties which shall have ratified and the high contracting party which deposits its instrument of ratification on the ninetieth day after the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify the Government of each of the high contracting parties of the date on which this convention comes into force as well as the date of the deposit of each ratification.

ARTICLE XXXVIII

(1) This convention shall, after it has come into force, remain open for adherence by any state.

(2) The adherence shall be effected by a notification addressed to the

Government of the Republic of Poland, which shall inform the Government of each of the high contracting parties thereof.

(3) The adherence shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

ARTICLE XXXIX

(1) Any one of the high contracting parties may denounce this convention by a notification addressed to the Government of the Republic of Poland, which shall at once inform the Government of each of the high contracting parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the party which shall have proceeded to denunciation.

ARTICLE XL

(1) Any high contracting party may, at the time of signature or of deposit of ratification or of adherence declare that the acceptance which it gives to this convention does not apply to all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or its authority, or any other territory under its suzerainty.

(2) Accordingly any high contracting party may subsequently adhere separately in the name of all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority or any other territory under its suzerainty which have been thus excluded by its original declaration.

(3) Any high contracting party may denounce this convention, in accordance with its provisions, separately or for all or any of its colonies, protectorates, territories under mandate or any other territory subject to its sovereignty or to its authority, or any other territory under its suzerainty.

ARTICLE XLI

Any high contracting party shall be entitled not earlier than two years after the coming into force of this convention to call for the assembling of a new international conference in order to consider any improvements which may be made in this convention. To this end it will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such conference.

This convention done at Warsaw on October 12, 1929, shall remain open for signature until January 31, 1930.

For Germany:
R. RICHTER
DR. A. WEGERDT
DR. E. ALBRECHT
DR. OTTO RIESE

For Austria:
STROBELE
REINOEHL

For Belgium:
BERNARD DE L'ESCAILLE

For Brazil:
ALCIBIADES PEÇANHA
For Bulgaria:
For China:
For Denmark:
L. INGERSLEV
KNUD GREGERSEN
For Egypt:
For Spain:
SILVIO FERNANDEZ VALLIN
For Estonia:
For Finland:
For France:
PIERRE ÉTIENNE FLANDIN
GEORGES RIPERT
For Great Britain and Northern Ireland:
A. H. DENNIS
ORME CLARKE
R. L. MEGARRY
For the Commonwealth of Australia:
A. H. DENNIS
ORME CLARKE
R. L. MEGARRY
For the Union of South Africa:
A. H. DENNIS
ORME CLARKE
R. L. MEGARRY
For Greece:
G. C. LAGOUDAKIS
For Hungary:
For Italy:
A. GIANNINI
For Japan:
KAZUO NISHIKAWA
For Latvia:
M. NUKSA
For Luxembourg:
E. ARENDT
For Mexico:
For Norway:
N. CHR. DITLEFF
For the Netherlands:
W. B. ENGELBRECHT
For Poland:
AUGUSTE ZALESKI
ALFONS KÜHN
For Rumania:
G. CRETZIANO
For Sweden:
For Switzerland:
EDM. PITTARD
DR. F. HESS
For Czechoslovakia:
DR. V. GIRSA
For the Union of Soviet Socialist Republics:
KOTZUBINSKY
For Venezuela:
For Yugoslavia:
IVO DE GIULLI

ADDITIONAL PROTOCOL

(With reference to Article 2)

The high contracting parties reserve to themselves the right to declare at the time of ratification or of adherence that the first paragraph of Article 2 of this convention shall not apply to international transportation by air performed directly by the state, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

[Here follow the same signatures as those to the convention.]

CUBA—UNITED STATES

TREATY ABROGATING THE TREATY OF RELATIONS OF 1903[1]

Signed at Washington, May 29, 1934; ratifications exchanged, June 9, 1934

The United States of America and the Republic of Cuba, being animated by the desire to fortify the relations of friendship between the two countries and to modify, with this purpose, the relations established between them by the Treaty of Relations signed at Habana, May 22, 1903,[2] have appointed, with this intention, as their plenipotentiaries:

The President of the United States of America; Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The Provisional President of the Republic of Cuba, Señor Dr. Manuel Márquez Sterling, Ambassador Extraordinary and Plenipotentiary of the Republic of Cuba to the United States of America.

Who, after having communicated to each other their full powers which were found to be in good and due form, have agreed upon the following articles:

ARTICLE I

The Treaty of Relations which was concluded between the two contracting parties on May 22, 1903, shall cease to be in force, and is abrogated, from the date on which the present treaty goes into effect.

ARTICLE II

All the acts effected in Cuba by the United States of America during its military operation of the island, up to May 20, 1902, the date on which the Republic of Cuba was established, have been ratified and held as valid; and all rights legally acquired by virtue of those acts shall be maintained and protected.

ARTICLE III

Until the two contracting parties agree to the modification or abrogation of the stipulations of the agreement in regard to the lease to the United States of America of lands in Cuba for coaling and naval stations signed by the President of the Republic of Cuba on February 16, 1903, and by the President of the United States of America on the 23d day of the same month and year, the stipulations of that agreement with regard to the naval station of Guantanamo shall continue in effect. The supplementary agreement in regard to naval or coaling stations signed between the two Governments on July 2, 1903, also shall continue in effect in the same form and on the same conditions with respect to the naval station at Guantanamo. So long as the

[1] State Dept. press release.

[2] Printed in this JOURNAL, Supplement, Vol. 4 (1910), p. 177.

United States of America shall not abandon the said naval station of Guantanamo or the two Governments shall not agree to a modification of its present limits, the station shall continue to have the territorial area that it now has, with the limits that it has on the date of the signature of the present treaty.

ARTICLE IV

If at any time in the future a situation should arise that appears to point to an outbreak of contagious disease in the territory of either of the contracting parties, either of the two Governments shall, for its own protection, and without its act being considered unfriendly, exercise freely and at its discretion the right to suspend communication between those of its ports that it may designate and all or part of the territory of the other party, and for the period that it may consider to be advisable.

ARTICLE V

The present treaty shall be ratified by the contracting parties in accordance with their respective constitutional methods; and shall go into effect on the date of the exchange of their ratifications, which shall take place in the city of Washington as soon as possible.

In faith whereof, the respective plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in duplicate, in the English and Spanish languages, at Washington on the twenty-ninth day of May, one thousand nine hundred and thirty-four.

CORDELL HULL,
SUMNER WELLES,
M. MÁRQUEZ STERLING.

MEXICO—UNITED STATES

CONVENTION FOR THE RECTIFICATION OF THE RIO GRANDE IN THE EL PASO-JUAREZ VALLEY [1]

Signed at Mexico City, Feb. 1, 1933; ratifications exchanged, Nov. 10, 1933

The United States of America and the United Mexican States having taken into consideration the studies and engineering plans carried on by the International Boundary Commission, and specially directed to relieve the towns and agricultural lands located within the El Paso-Juarez Valley from flood dangers, and securing at the same time the stabilization of the international boundary line, which, owing to the present meandering nature of the river it has not been possible to hold within the mean line of its channel; and fully conscious of the great importance involved in this matter, both from a local point of view as well as from a good international understanding, have resolved to undertake, in common agreement and cooperation, the necessary works as

[1] U. S. Treaty Series, No. 864.

provided in Minute 129 (dated July 31, 1930) of the International Boundary Commission, approved by the two Governments in the manner provided by treaty; and in order to give legal and final form to the project, have named as their plenipotentiaries:

The President of the United States of America, J. Reuben Clark, Jr., Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico; and

The President of the United Mexican States, Doctor José Manuel Puig Cassaurane, Secretary of State for Foreign Affairs;

Who, after having communicated their respective full powers and having found them in due and proper form, have agreed on the following articles:

Article I

The Government of the United States of America and the Government of the United Mexican States have agreed to carry out the Rio Grande rectification works provided for in Minute 129 of the International Boundary Commission and annexes thereto, approved by both Governments, in that part of the river beginning at the point of intersection of the present river channel with the located line as shown in map, exhibit No. 2 of Minute 129 of said Commission (said intersection being south of Monument 15 of the boundary polygon of Córdoba Island) and ending at Box Canyon.

The terms of this convention and of Minute 129 shall apply exclusively to river rectification within the limits above set out.

The two Governments shall study such further minutes and regulations as may be submitted by the International Boundary Commission and, finding them acceptable, shall approve same in order to carry out the material execution of the works in accordance with the terms of this convention. The works shall be begun after this convention becomes effective.

Article II

For the execution of the works there shall be followed the procedure outlined in the technical study of the project. The works shall be begun and shall be carried on primarily from the lower end, but at the same time and for reasons of necessity works may be carried on in the upper sections of the valley.

Article III

In consideration of the difference existing in the benefits derived by each of the contracting countries by the rectification works, the proratable cost of the works will be defrayed by both Governments in the proportion of eighty-eight per cent (88%) by the United States of America and of twelve per cent (12%) by the United Mexican States.

ARTICLE IV

The direction and inspection of the works shall be under the International Boundary Commission, each Government employing for the construction of that portion of the work it undertakes, the agency that in accordance with its administrative organization should carry on the work.

ARTICLE V

The International Boundary Commission shall survey the ground to be used as the right of way to be occupied by the rectified channel, as well as the parts to be cut from both sides of said channel. Within thirty days after a cut has been made, it shall mark the boundaries on the ground, there being a strict superficial compensation in total of the areas taken from each country. Once the corresponding maps have been prepared, the Commission shall eliminate these areas from the provisions of Article II of the convention of November 12, 1884, in similar manner to that adopted in the convention of March 20, 1905 for the elimination of bancos.

ARTICLE VI

For the sole purpose of equalizing areas, the axis of the rectified channel shall be the international boundary line. The parcels of land that, as a result of these cuts or of merely taking the new axis of the channel as the boundary line, shall remain on the American side of the axis of the rectified channel shall be the territory and property of the United States of America, and the territory and property of the United Mexican States those on the opposite side, each Government mutually surrendering in favor of the other the acquired rights over such parcels.

In the completed rectified river channel—both in its normal and constructed sections—and in any completed portion thereof, the permanent international boundary shall be the middle of the deepest channel of the river within such rectified river channel.

ARTICLE VII

Lands within the rectified channel, as well as those which, upon segregation, pass from the territory of one country to that of the other, shall be acquired in full ownership by the Governments in whose territory said lands are at the present time; and the lands passing as provided in Article V hereof, from one country to the other, shall pass to each Government respectively in absolute sovereignty and ownership, and without encumbrance of any kind, and without private national titles.

ARTICLE VIII

The construction of works shall not confer on the contracting parties any property rights in or any jurisdiction over the territory of the other. The completed work shall constitute part of the territory and shall be the property of the country within which it lies.

Each Government shall respectively secure title, control, and jurisdiction of its half of the flood channel, from the axis of that channel to the outer edge of the acquired right of way on its own side, as this channel is described and mapped in the International Boundary Commission Minute number 129, and the maps, plans, and specifications attached thereto, which Minute, maps, plans, and specifications are attached hereto and made a part of this convention.[2] Each Government shall permanently retain full title, control, and jurisdiction of that part of the flood channel constructed as described, from the deepest channel of the running water in the rectified channel to the outer edge of such acquired right of way.

ARTICLE IX

Construction shall be suspended upon request of either Government, if it be proved that the works are being constructed outside of the conditions herein stipulated or fixed in the approved plan.

ARTICLE X

In the event there be presented private or national claims for the construction or maintenance of the rectified channel, or for causes connected with the works of rectification, each Government shall assume and adjust such claims as arise within its own territory.

ARTICLE XI

The International Boundary Commission is charged hereafter with the maintenance and preservation of the rectified channel. To this end the Commission shall submit, for the approval of both Governments, the regulations that should be issued to make effective said maintenance.

ARTICLE XII

Both Governments bind themselves to exempt from import duties all materials, implements, equipment, and supplies intended for the works, and passing from one country to the other.

ARTICLE XIII

The present convention is drawn up both in the English and Spanish languages.

ARTICLE XIV

The present convention shall be ratified by the high contracting parties in accordance with their respective laws, and the ratifications shall be exchanged in the City of Washington as soon as possible. This convention will come into force from the date of the exchange of ratifications.

[2] Maps, plans, and specifications omitted from this JOURNAL.

In witness whereof the plenipotentiaries mentioned above have signed this convention and have affixed their respective seals.

Done in duplicate at the City of Mexico this first day of February one thousand nine hundred and thirty-three.

[SEAL] J. REUBEN CLARK JR.
[SEAL] PUIG

ANNEX

Minute 129 of the International Boundary Commission dated July 31, 1930, referred to in Article I of this convention.

INTERNATIONAL BOUNDARY COMMISSION UNITED STATES AND MEXICO

Mexico City, July 31, 1930.

MINUTE No 129.

Subject: Report on Rio Grande Rectification.

The Commission met in the conference room at the Department of Foreign Relations, Mexico City, at ten o'clock a.m. July 31, 1930, in accordance with Minute No. 128, to complete its action in reporting and recommending a plan for Rio Grande rectification.

(1) Each section of the International Boundary Commission has been requested by the Foreign Relations Department of its Government to study and develop an international plan for the removal of the flood menace of the Rio Grande from the El Paso-Juarez Valley. Studies and investigations have now reached the point where it is possible to report to the two Governments a definite plan with estimates of cost; and the following is the report of the International Boundary Commissioners, together with a joint report prepared by the consulting engineers and technical advisers. Minute No. 111 of the Joint Commission, dated December 21, 1928, outlined in a general way the necessities for international action and gave a general description of the areas involved, a preliminary summary of the proposed plan and recommended proceeding with the development of the final details of the plans and estimates. During the past few months the most important step taken by the Commission consisted in rendering decisions determining the national jurisdiction and dominion of a number of Chamizal cases in the area under consideration.

(2) The plan prepared and developed by the Joint Commission is attached hereto as an exhibit to this minute.[3] In transmitting it to the two Governments the Commissioners offer it as being both practical and feasible as an engineering and economic project. In general the plan consists of straightening the present river channel, effecting a decrease in length from one hundred fifty-five (155) miles to eighty-eight (88) miles, and confining this channel between two parallel levees. In addition to this channel the plan includes the construction of a flood retention dam at the only available site, twenty-

[3] Omitted from this JOURNAL.

two (22) miles below Elephant Butte on the Rio Grande, creating reservoir storage of one hundred thousand (100,000) acre feet. Careful studies based on actual past flood performance show the advantage of reducing the flood flow reaching El Paso-Juarez by storage in the proposed reservoir. The reduction in flood flow through the El Paso-Juarez Valley accomplished by such storage of flood waters effects a saving of a quarter of a million dollars in the works required through the valley by decreasing the size of the channel and reducing the area required for right-of-way, and amount of yardage in levees.

(3) The meandering and uncontrolled Rio Grande below El Paso-Juarez has in recent years become a very serious menace to adjacent lands on both sides. Authorities of both countries have unsuccessfully attempted the protection of the improvements in the El Paso-Juarez Valley and the two cities. Considering the utility of providing adequate and proper protection on the present meandering river location, the two affected communities have expended the limit of a reasonable and justifiable amount in local flood protection works. A proper and sound plan for accomplishing desired results lies in a coördinated international project.

(4) Existing treaties provide for the center of the Rio Grande, except in isolated cases, being the international boundary line. The present river channel, with excessive length, was produced by natural conditions which no longer exist. Increase in settlement, cultivation and values justify both Governments in considering means of removing the flood menace and providing an adequate flood channel.

(5) Actual field surveys were continued in the location on the ground of a rectified channel subject, of course, to some later slight modification, but generally sufficiently definite to permit estimates of right-of-way and construction costs. With office and field location of this channel line which generally follows and straightens the present meandering river, it has been possible to estimate acreages and values of the relatively small areas that would be detached from one country and attached to the other—so balanced in area that neither country would gain nor lose national territory.

(6) At the present time the bed of the Rio Grande between El Paso and Juarez is at a higher elevation than some of the streets and other properties of the two cities. Accumulations of sediment are continuing to aggravate this situation, and until proper grades and hydraulic conditions are introduced by artificial works, there are no means for carrying off these deposits which are encroaching upon the carrying capacity of the channel. The consensus of opinion of engineers who have studied the situation is that the correction lies in the plan proposed of straightening and confining the channel. One of the principal requirements to permit such artificial rectification is the equitable adjustment of the areas which would be necessarily detached from one side of the river and attached to the other in the straightening process. The plan evolved, of having each Government acquire the private titles to these equal

areas for later exchange, provides a feasible solution. These areas to be acquired are generally seeped and water-logged, and so shaped and situated as to be unsusceptible of proper irrigation and drainage.

(7) The benefits to be derived from the straightened and rectified channel plans are mutual to the two Governments in affording flood protection and in permitting cultivation, improvement and settlement of even larger areas adjoining the Rio Grande than are now possible under the meandering river conditions. It is of utmost importance that the Governments own and control the flood channel in order that private encroachments be definitely prevented and eliminated. Such ownership and control will also be of great assistance in the enforcement of national immigration and customs laws of both countries.

(8) In giving consideration to the determination of proper and justifiable proration of costs between the two countries, conditions other than gross and irrigated areas are necessarily included. Economic features and values in the two countries are distinct and different. While the use of areas may be entirely proper in a distribution of costs for irrigation development, this unit of proration for an international flood control plan is unsuitable and produces serious irregularities. The Commission has taken into consideration the benefits that each country would receive according to the areas and their values to be protected rather than the benefits each would receive on the sole acreage basis. On the American side of the valley there are about fifty-three thousand (53,000) acres of land under the Rio Grande Federal Irrigation Project with water rights assured; the greater part of which is in full cultivation, and about seventeen thousand (17,000) acres in the lower portion of the valley below the project limits which are irrigated with project surplus water. The total irrigated area is seventy thousand (70,000) acres. This area is served with irrigation and drainage works, and first-class roads. Finance companies facilitate the financing of the production and distribution of agricultural products.

(9) On the Mexican side of the valley there are about thirty-five thousand (35,000) acres of land in cultivation, of which twenty thousand (20,000) acres have assured water rights under the Rio Grande Federal Irrigation Project, provided for by the Water Treaty of 1906. Practically no drainage works have been constructed and the irrigation works are largely insufficient. The productiveness of the lands on the Mexican side is under these circumstances much less than the corresponding lands on the north side of the river, and there are large areas with insignificant or no production. No major road improvements exist, and the finance companies organized to serve Mexican farmers are very limited in number and resources. The industrial plants and means for handling agricultural products are in very small proportion when compared with those in the valley in the United States.

(10) The estimated value of agricultural investments in the American part of the valley, according to figures assembled by the Bureau of Reclama-

tion, including purchase of land and its preparation, farm improvements, equipment and live stock, is seventeen million dollars ($17,000,000) or thirty-four million gold pesos. The value of agricultural improvements on the Mexican side as estimated by Engineer Salvador Arroyo, Chief of the Flood Protection Work is five million four hundred thousand ($5,400,000) gold pesos. Comparing these agricultural values in one part of the valley with those in the other it is seen that the Mexican side represents thirteen per cent of the total and the American eighty-seven per cent. Valley lands on either side of the river without water rights and assured irrigation service have very nominal value as compared with the lands obtaining water service from project sources; a comparison of such areas on this basis results in twenty-seven per cent for Mexico and seventy-three per cent for the United States.

(11) As the cities and suburbs of El Paso and Juarez not only are included in the flood protection plan, but either directly or indirectly would receive a large part of the benefits of the rectification of the channel, the Commission has considered the proration of values which each city bears to the other and giving proper weights to various percentages, believes the justifiable proration to be twelve (12) per cent for Mexico and eighty-eight (88) per cent for the United States.

(12) With reference to the estimates (exhibit number five of the engineers' report) [4] the grand total of six million one hundred six thousand five hundred dollars ($6,106,5[illegible]0) includes certain items in which the Commissioners concur as being non-proratable and properly and practically chargeable to each Government separately. These are: rights-of-way four hundred twelve thousand five hundred dollars ($412,500), for purchase of private channel rights above Cordova seventy-five thousand dollars ($75,000), segregated tracts two hundred sixty-six thousand dollars ($266,000), changes in irrigation works two hundred twenty-five thousand dollars ($225,000). The total of these items, with twenty per cent overhead and contingencies is one million one hundred seventy-four thousand two hundred dollars ($1,174,200). This amount subtracted from the grand total leaves a proratable total of four million nine hundred thirty-two thousand three hundred dollars ($4,932,300). Using twelve per cent (12%) and eighty-eight per cent (88%) as the basis of proration Mexico's share of the cost of the project would be five hundred ninety-one thousand eight hundred seventy-six dollars ($591,876) and that of the United States four million three hundred forty thousand four hundred twenty-four dollars (4,340,424).

(13) On the basis that this report and the engineers' statement have been prepared and submitted with the view of generally straightening the present river location between the International Dam above El Paso-Juarez and the Box Canyon below Fort Quitman, the question of using the present river at Fabens or following the boundary route on the south of the San Elizario area is left for later determination. From the data at hand, apparently there is

[4] Omitted from this JOURNAL.

argument in favor of both routes. Following either the present river or the boundary line route requires adjustment of detached areas, and the proposed channel below this section can be so located as to compensate for any inequalities of such areas.

(14) The following are the recommendations of the Commission:

(a) The Commissioners recommend that the two Governments approve the plan for river rectification as outlined in the attached engineering report, including the feature of the flood retaining dam, the general straightening of the present river location and the establishment of a flood channel which generally will follow and straighten the present river from International Dam to the Box Canyon below Fort Quitman.

(b) That both countries in view of the serious situation proceed to an agreement, without delay, which will carry into effect the engineering and construction features as outlined in the attached report.

(c) That the International Boundary Commission be authorized to prepare detail plans, and to direct and supervise the construction and all other engineering operations, utilizing such established governmental agencies as each government may deem proper.

(d) That each section of the International Boundary Commission be authorized to acquire for its country the necessary rights-of-way and detached areas located within its territorial limits, through the proper governmental agencies.

(e) That agreement between the two Governments provide for the exchange of one-half of the area required for right-of-way and the total area of detached tracts of each country.

(f) That the total proratable cost of four million nine hundred thirty-two thousand three hundred dollars ($4,932,300) be divided between Mexico and the United States on the basis of twelve per cent (12%) and eighty-eight per cent (88%) respectively, and that each Government provide annually such required appropriations as will complete the work in four or five years.

(g) That the agreement between the two countries provide for the jurisdiction of the International Boundary Commission over all matters concerning the rectified channel.

(h) That this Commission be authorized to adopt such rules and regulations as it may deem necessary to the end that the preservation of the rectified channel may be perpetuated.

(i) That each country hold the other immune from all private or national claims arising from the construction and maintenance of the rectified channel or any other cause whatsoever in connection with this project.

Respectfully submitted.

The Commission adjourned to meet again at the call of either of the Commissioners.

(Sgd.) L. M. Lawson
Commissioner for the United States.

(Sgd.) GUSTAVO P. SERRANO
Commissioner for Mexico.

(Sgd.) MERVIN B. MOORE
Acting Secretary of the United States Section.

(Sgd.) JOSÉ HERNÁNDEZ OJEDA
Secretary of the Mexican Section.

POLAND—UNITED STATES

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS [1]

Signed at Washington, June 15, 1931; ratifications exchanged June 9, 1933

The United States of America and the Republic of Poland, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, Henry L. Stimson, Secretary of State of the United States of America, and

The President of the Republic of Poland, Tytus Filipowicz, Ambassador Extraordinary and Plenipotentiary of Poland in Washington,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the high contracting parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice; and generally the said nationals shall be permitted, upon submitting themselves to all local laws and regulations duly established, to enjoy all of the foregoing privileges and to do anything incidental to or necessary for the enjoyment of those privileges, upon the same terms as nationals of the state of residence, except as otherwise provided by laws of either high contracting party in force at the time of the signature of this treaty. In so far as the laws of either high contracting party in force at the time of the signature of this treaty do not permit nationals of the other party to enjoy any of the

[1] U. S. Treaty Series, No. 862.

foregoing privileges upon the same terms as the nationals of the state of residence, they shall enjoy, on condition of reciprocity, as favorable treatment as nationals of the most favored nation.

The nationals of either high contracting party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each high contracting party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, in all degrees of jurisdiction established by law.

The nationals of each high contracting party shall receive within the territories of the other, upon submitting to the conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this treaty shall be construed to affect existing statutes of either of the high contracting parties in relation to emigration or to immigration or the right of either of the high contracting parties to enact such statutes, provided, however, that nothing in this paragraph shall prevent the nationals of either high contracting party from entering, traveling and residing in the territories of the other party in order to carry on international trade or to engage in any commercial activity related to or connected with the conduct of international trade on the same terms as nationals of the most favored nation.

Nothing contained in this treaty is to be considered as interfering with the right of either party to enact or enforce statutes concerning the protection of national labor.

ARTICLE II

With respect to that form of protection granted by National, State, or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the high contracting parties and injured within any of the territories of the other, shall, regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the high contracting parties in the territories of the other, used for any purposes

set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of, any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any persons holding real or other immovable property or interests therein within the territories of one high contracting party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other high contracting party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either high contracting party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the high contracting party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the high contracting parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose subject to the mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

Between the territories of the high contracting parties there shall be freedom of commerce and navigation. The nationals of each of the high con-

tracting parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either high contracting party to impose on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant life and health, or regulations for the enforcement of police or revenue laws, including laws prohibiting or restricting the importation or sale of alcoholic beverages or narcotics.

Each of the high contracting parties binds itself unconditionally to impose no higher or other duties or charges and no condition or prohibition on the importation of any article, the growth, produce, or manufacture of the territories of the other party than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other country. Administrative orders effecting advances in duties or changes in regulations applicable to imports shall not be made operative until the elapse of sufficient time, after promulgation in the usual official manner, to afford reasonable notice of such advances or changes. The foregoing provision does not relate to orders made operative as required by provisions of law or judicial decisions, or to measures for the protection of human, animal or plant life or for the enforcement of police laws.

Each of the high contracting parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other high contracting party than are imposed on goods exported to any other foreign country.

Neither high contracting party shall establish or maintain restrictions on imports from or exports to the territories of the other party which are not applied to the import and export of any like article originating in or destined for any other country. Any withdrawal of an import or export restriction which is granted even temporarily by one of the parties in favor of the articles of a third country shall be applied immediately and unconditionally to like articles originating in or destined for the other contracting party. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the high contracting parties agrees to grant for the importation from or exportation to the territories of the other party an equitable share in the allocation of the quantity of restricted goods which may be authorized for importation or exportation.

Any advantage concerning charges, duties, formalities and conditions of their application which either high contracting party may extend to any article, the growth, produce or manufacture of any other foreign country, shall simultaneously and unconditionally, without request and without compensation be extended to the like article the growth, produce or manufacture of the other high contracting party.

All articles which are or may be legally imported from foreign countries into ports of the United States of America or are or may be legally exported therefrom in vessels of the United States of America, may likewise be imported into these ports or exported therefrom in Polish vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States of America; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Poland or are or may be legally exported therefrom in Polish vessels, may likewise be imported into these ports or exported therefrom in vessels of the United States of America without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Polish vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks and other privileges of this nature, of whatever denomination, which may be allowed in the territories of each of the contracting parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two high contracting parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third state, whether such favored state shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third state shall simultaneously and unconditionally, without request and without compensation be extended to the other high contracting party for the benefit of itself, its nationals, vessels and goods.

No distinction shall be made by either high contracting party between direct and indirect importations of articles originating in the territories of the other party from whatever place arriving. In so far as importations into Poland are concerned, the foregoing stipulation applies only in the case of goods which for a part of the way from the place of their origin to the place of their ultimate destination had to be carried across the ocean.

Either contracting party has the right to require that articles which are imported from the territories of the other party and are entitled under the provisions of this treaty to the benefit of the duties or charges accorded to the most favored nation, must be accompanied by such documentary proof of their origin as may be required in pursuance of the laws and regulations of the country into which they are imported, provided, however, that the requirements imposed for this purpose shall not be such as to constitute in fact a hindrance to indirect trade. The requirements for furnishing such

proof of origin shall be agreed upon and made effective by exchanges of notes between the high contracting parties.

The stipulations of this article shall not extend:

(a) To the treatment which either high contracting party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometers) wide on either side of its customs frontier.

(b) To the special privileges resulting to states in customs union with either high contracting party so long as such special privileges are not accorded to any other state.

(c) To the treatment which is accorded by the United States of America to the commerce of Cuba under the provisions of the commercial convention concluded by the United States of America and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States of America with Cuba. Such stipulations, moreover, do not extend to the treatment which is accorded to commerce between the United States of America and the Panama Canal Zone or any of the dependencies of the United States of America, or to the commerce of the dependencies of the United States of America with one another under existing and future laws.

(d) To the provisional customs régime in force between Polish and German parts of Upper Silesia laid down in the German-Polish Convention signed at Geneva on May 15, 1922.

ARTICLE VII

The nationals and merchandise of each high contracting party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, charges in respect to warehousing and other facilities.

ARTICLE VIII

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE IX

For the purposes of this treaty, merchant vessels and other privately owned vessels under the flag of either of the high contracting parties, and carrying the papers required by its national laws in proof of nationality, shall, both

within the territorial waters of the other high contracting party and on the high seas, be deemed to be the vessels of the party whose flag is flown.

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the high contracting parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other high contracting party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the high contracting parties is exempt from the provisions of this article and from the other provisions of this treaty, and is to be regulated according to the laws of each high contracting party in relation thereto. It is agreed, however, that the nationals of either high contracting party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

The provisions of this treaty relating to the mutual concession of national treatment in matters of navigation do not apply to special privileges reserved by either high contracting party for the fishing and shipbuilding industries.

ARTICLE XI

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, national, state or provincial, of either high contracting party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other high contracting party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy freedom of access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either high contracting party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by the consent of such party as expressed in its national, state, or provincial laws and regulations.

ARTICLE XII

The nationals of either high contracting party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be

accorded the nationals of any other state with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either high contracting party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the party wherein they propose to engage in business.

The nationals of either high contracting party shall, moreover, enjoy within the territories of the other, on condition of reciprocity, and upon compliance with the conditions there imposed, such rights and privileges as may hereafter be accorded the nationals of any other state with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other. It is understood, however, that neither high contracting party shall be required by anything in this paragraph to grant any application for any such right or privilege if at the time such application is presented the granting of all similar applications shall have been suspended or discontinued.

ARTICLE XIII

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either high contracting party shall on their entry into and sojourn in the territories of the other party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either high contracting party shall deem necessary the presentation of an authentic document establishing the identity and authority of commercial travelers representing manufacturers, merchants or traders domiciled in the territories of the other party in order that such commercial traveler may enjoy in its territories the privileges accorded under this article, the high contracting parties will agree by exchange of notes on the form of such document and the authorities or persons by whom it shall be issued.

ARTICLE XIV

There shall be complete freedom of transit through the territories including territorial waters of each high contracting party on the most convenient

routes open for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons, their luggage and goods coming from, going to or passing through the territories of the other high contracting party, except such persons as may be forbidden admission into its territories, or goods or luggage of which the importation may be prohibited by law. Persons, their luggage and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities or any other matter.

Goods in transit must be entered and cleared at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

Nothing in this article shall affect the right of either of the high contracting parties to prohibit or restrict the transit of arms, munitions and military equipment in accordance with treaties or conventions that may have been or may hereafter be entered into by either party with other countries.

ARTICLE XV

Each of the high contracting parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the high contracting parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Government of each of the high contracting parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

ARTICLE XVI

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses

locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at court by a consular officer as a witness may be demanded by the prosecution or defence. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony in cases to which he is not a party shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at court whenever it is possible to do so without serious interference with his official duties.

ARTICLE XVII

Each of the high contracting parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are of its nationals, the privilege of entry free of duty of their baggage and all other property intended for their personal use, accompanying the officer to his post; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the high contracting parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation.

It is understood, however, that the privileges of this article shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XVIII

Consular officers, including employees in a consulate, nationals of the state by which they are appointed other than those engaged in private occupations for gain within the state where they exercise their functions, shall be exempt from all taxes, national, state, provincial and municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within, the territories of the state within which they exercise their functions. All consular officers and employees, nationals of the state appointing them, shall be exempt from the

payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

The Government of each high contracting party shall have the right to acquire and own land and buildings required for diplomatic or consular premises in the territory of the other high contracting party and also to erect buildings in such territory for the purposes stated subject to local building regulations.

Lands and buildings situated in the territories of either high contracting party, of which the other high contracting party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, national, state, provincial and municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XIX

Consular officers may place over the outer door of their respective offices the coat of arms of their state with an appropriate inscription designating the official office, and they may place the coat of arms of their state on automobiles employed by them in the exercise of their consular functions. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The quarters where consular business is conducted and the archives of the consulates shall at all times be inviolable, and under no pretext shall any authorities of any character within the country make any examination or seizure of papers or other property deposited with the archives. When consular officers are engaged in business within the territory of the state where they are exercising their duties, the files and documents of the consulate shall be kept in a place entirely separate from the one where private or business papers are kept. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

Upon the death incapacity, or absence of a consular officer, having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the state where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XX

Consular officers, nationals of the state by which they are appointed, may, within their respective consular districts, address the authorities, national, state, provincial or municipal, for the purpose of protecting their countrymen

in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXI

Consular officers, in pursuance of the laws of their own country may (a) take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country; (b) draw up, attest, certify and authenticate unilateral acts, translations, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party; (c) authenticate signatures; (d) draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted, within the territories of the state by which they are appointed.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated by the consular officer, under his official seal, shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always, that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

A consular officer of either high contracting party shall within his district have the right to act personally or by delegate in all matters concerning claims of non-support of non-resident wards or children against a father resident in the district of the consul's residence and a national of the country represented by the consul, without other authorization, providing that such procedure is not in conflict with local laws.

ARTICLE XXII

In case of the death of a national of either high contracting party in the territory of the other without having in the locality of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the state of which the deceased was a national of the fact of the death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the high contracting parties without will or testament, in the territory of the other high contracting party, the consular officer of the state of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

In case of the death of a national of either of the high contracting parties without will or testament and without any known heirs resident in the country of his decease the consular officer of the country of which the deceased was a national shall be appointed administrator of the estate of the deceased, provided the regulations of his own Government permit such appointment and provided such appointment is not in conflict with local law and the tribunal having jurisdiction has no special reasons for appointing someone else.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXIII

A consular officer of either high contracting party may, if this is not contrary to the local law, appear personally or by delegate on behalf of non-resident beneficiaries, nationals of the country represented by him before the proper authorities administering workmen's compensation laws and other like statutes with the same effect as if he held the power of attorney of such beneficiaries to represent them unless such beneficiaries have themselves appeared either in person or by duly authorized representative.

Written notice of the death of their countrymen entitled to benefit by such laws should, whenever practicable, be given by the authorities administering the law to the appropriate consular officer of the country of which the deceased was a national.

A consular officer of either high contracting party may on behalf of his non-resident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called workmen's compensation laws or other like statutes provided he remits any funds so received through the appropriate agencies of his Government to the proper distributees.

ARTICLE XXIV

A consular officer of either high contracting party shall, within his district, have the right to appear personally or by delegate in all matters concerning

the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities for all such heirs or legatees in said estate, either minors or adults, as may be non-residents and nationals of the country represented by the said consular officer with the same effect as if he held their power of attorney to represent them unless such heirs or legatees themselves have appeared either in person or by duly authorized representative.

ARTICLE XXV

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the state by which the consular officer has been appointed and within the territorial waters of the state to which he has been appointed constitutes a crime according to the laws of that state, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the state to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the state to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXVI

A consular officer of either high contracting party shall have the right to inspect within the ports of the other high contracting party within his consular district, the private vessels of any that destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII

All proceedings relative to the salvage of vessels of either high contracting party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXVIII

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the high contracting parties to which the provisions of this treaty extend shall be understood to comprise all areas of land, water, and air over which the parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

ARTICLE XXIX

The Polish Government which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Versailles and Articles 2 and 6 of the treaty signed in Paris on November 9, 1920, between Poland and the Free City of Danzig, reserves hereby the right to declare that the Free City of Danzig is a contracting party to this treaty and that it assumes the obligations and acquires the rights laid down therein.[2]

This reservation does not relate to those stipulations of the treaty which the Republic of Poland has accepted with regard to the Free City in accordance with the treaty rights conferred on Poland.

ARTICLE XXX

The present treaty shall be ratified and the ratifications thereof shall be exchanged at Warsaw. The treaty shall take effect in all its provisions thirty days from the date of the exchange of ratifications and shall remain in full force for the term of one year thereafter.

[2] See declaration of March 9, 1934, *infra*, p. 124.

If within six months before the expiration of the aforesaid period of one year neither high contracting party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this treaty or of terminating it upon the expiration of the aforesaid period, the treaty shall remain in full force and effect after the aforesaid period and until six months from such a time as either of the high contracting parties shall have notified to the other an intention of modifying or terminating the treaty.

In witness whereof the respective plenipotentiaries have signed this treaty and have affixed their seals thereto.

Done in duplicate, each in the English and Polish languages, both authentic, at Washington, this fifteenth day of June, one thousand nine hundred and thirty-one.

HENRY L. STIMSON [SEAL]
TYTUS FILIPOWICZ [SEAL]

AGREEMENT CONCERNING PROOF OF THE ORIGIN OF IMPORTED MERCHANDISE EFFECTED BY EXCHANGE OF NOTES PROVIDED FOR IN THE TENTH PARAGRAPH OF ARTICLE VI OF THE TREATY

Identical notes exchanged between Secretary of State (Stimson) and the Polish Ambassador at Washington (Filipowicz), June 15, 1931

I have the honor to communicate to Your Excellency my understanding of the agreement reached regarding the requirements for furnishing proof of the origin of imported merchandise entitled to the benefits of the treaty of friendship, commerce and consular rights signed this day on behalf of the United States of America and Poland.

In the event that proof of the origin of imported goods is required by either party pursuant to the provisions of the tenth paragraph of Article VI of the treaty, it is agreed that

(1) A declaration by the shipper in the country of origin legalized by a consular representative of the country of final destination resident in the country of origin shall be accepted as satisfactory proof of the origin of the goods. As far as certificates of origin for importation into the Polish customs territory are concerned, the above-mentioned shipper's declaration before legalization by a consular representative of Poland, has to be certified by a competent Chamber of Commerce or similar organization, subject to the exceptions provided for in subparagraph (a) of paragraph (3) hereof.

(2) For indirect shipments an acceptable alternative to the certificate of origin obtained in the country of origin as provided in paragraph (1) shall be proof of origin obtainable in the intermediate country from which the goods are last shipped to the country of final destination. Such proof shall consist of a declaration by the consignor of the goods in the intermediate country before a consular officer of the country of origin resident in the inter-

mediate country, certified by the latter and approved by a consular representative of the country of final destination resident in the intermediate country, it being understood that the consular representatives of the country of origin shall not certify the shipper's declaration for this purpose unless they are satisfied upon examination of documentary or other evidence that the statements made therein are true.

(3) The attached form of certificate of origin [3] for use in connection with direct shipments from the United States to Poland and the attached form for use in connection with indirect shipments from the United States to Poland through an intermediate country or countries, respectively, conform to the provisions above set forth, it being understood and agreed, however, that

(a) If the circumstances of any particular case render it impracticable for the shipper of the goods to obtain certification on a certificate of origin by a Chamber of Commerce or similar organization, the certificate of origin may be submitted for authentication directly to a Polish consular officer, and the fact that certification by a Chamber of Commerce or similar organization has not been obtained shall not be considered by such consular officer as of itself sufficient ground for refusing to authenticate the document.

(b) If at the time the certificate of origin is made out circumstances render it difficult or inconvenient for shippers to specify on such certificate the name of the vessel on which the goods are to be shipped, the necessities and convenience of shippers shall be taken into account either by waiving this requirement or by making such other provision as the circumstances of the case require.

(c) In exceptional cases in which doubt exists regarding the exact proportion of the value of any given article represented by the costs of the labor and raw material of the United States, or in which such proportion is less than fifty per centum, but the article, in view of the nature and extent of the processes to which it has been subjected, is distinctly an American product, no certification regarding such proportion on a certificate of origin shall be required.

Any article in which the raw material or the labor of the United States represents less than fifty per centum of the total value shall, nevertheless, be deemed to be a product of the United States if a like article from any third country representing less than fifty per centum in value the labor and raw material of such third country is deemed to be a product of that country.

(4) In the event that modification of the requirements outlined in the preceding paragraphs is at any time considered desirable from the viewpoint of either party, it is agreed that its proposals to this end shall be given sympathetic consideration by the other party.

[3] Omitted from this JOURNAL.

DECLARATION [4]

The Secretary of State to the Polish Ambassador

DEPARTMENT OF STATE,
Washington, *March 9, 1934.*

EXCELLENCY:

In compliance with your request, I have the honor on behalf of the Government of the United States of America to acknowledge the receipt of your note of this date, reading in translation as follows:

"Under instructions from my Government, I have the honor to communicate to your Excellency the following:

"The Polish Government, which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Peace, signed at Versailles, June 28, 1919, and under Articles 2 and 6 of the Convention between Poland and the Free City of Danzig, signed at Paris, November 9, 1920, declares, on behalf of Danzig and in execution of the provisions of Article XXIX of the Treaty of Friendship, Commerce and Consular Rights between Poland and the United States of America, signed at Washington, June 15, 1931, that the Free City of Danzig shall become a contracting party of the said treaty from the fifteenth day following the date of the receipt by the Government of the United States of America of this notification.

"I have the honor to request your Excellency to acknowledge receipt of this note."

The Government of the United States is happy to take note of this declaration, and will be pleased to recognize the Free City of Danzig as a contracting party to the Treaty of Friendship, Commerce and Consular Rights between the United States and Poland, signed at Washington, June 15, 1931, from March 24, 1934, the fifteenth day following the date on which the declaration hereby acknowledged was received by the Government of the United States.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

MR. STANISLAW PATEK,
Ambassador of Poland.

[4] U. S. Treaty Series, No. 865.

CONVENTION RELATING TO THE REGULATION OF AIR NAVIGATION [1]

OCTOBER 13, 1919

(Translation)

PROTOCOL RELATING TO THE AMENDMENTS TO ARTICLES 3, 5, 7, 15, 34, 37, 41, 42 AND TO THE FINAL CLAUSES [2]

Signed at Paris, June 15, 1929; in force, May 17, 1933

The International Commission for Air Navigation, in the course of its sixteenth session assembled in Paris under the Presidency of M. Pierre-Etienne Flandin, assisted by Mr. Albert Roper, Secretary-General, approved at its meeting of the 15th June, 1929, in conformity with the dispositions of Article 34 of the Convention Relating to the Regulation of Air Navigation, certain modifications of Articles 3, 5, 7, 15, 34, 37, 41 and 42, as well as of the final clauses of the aforesaid convention, which will read as follows, in French, in English and in Italian: [3]

ARTICLE 3

Each contracting state is entitled for military reasons or in the interest of public safety to prohibit the aircraft of the other contracting states, under the penalties provided by its legislation and subject to no distinction being made in this respect between its private aircraft and those of the other contracting states, from flying over certain areas of its territory.

Each contracting state may, as an exceptional measure, and in the interest of public safety, authorize flight over the said areas by its national aircraft.

The *position* and extent of the prohibited areas shall be *previously* published and *shall be* notified, *as well as the exceptional authorizations issued under the last preceding paragraph,* to *all* the other contracting states *as well as to the International Commission for Air Navigation.*

[1] British Treaty Series No. 2 (1922), Cmd. 1609. Also this JOURNAL, Supplement, Vol. 17 (1923), p. 195. For the ratifications of the convention and additional protocol, see this JOURNAL, *ibid.*, pp. 213–215. Since then ratifications have been made by Italy and Czechoslovakia on March 1, 1922, and Nov. 23, 1923; adhesions by Bulgaria, July 5, 1923; Denmark, Oct. 14, 1927, and Sweden, July 16, 1927; and The Netherlands, Netherlands Indies, Surinam, and Curaçao acceded on Nov. 20, 1928, and Finland on Nov. 12, 1931.

[2] Ratifications by the United Kingdom, Canada, Australia, New Zealand, South Africa, Sept. 19, 1930; Irish Free State, April 9, 1930; India, Oct. 16, 1930; Belgium, March 8, 1930; Bulgaria, July 21, 1931; Chile, Jan. 31, 1933; Czechoslovakia, Oct. 8, 1931; Denmark, Oct. 17, 1929; France, Nov. 8, 1929; Greece, April 17, 1931; Italy, Nov. 25, 1930; Japan, March 25, 1932; The Netherlands, Sept. 18, 1931; Poland, Sept. 24, 1931; Portugal, Jan. 24, 1930; Roumania, Dec 19, 1930; Saar Territory, Nov. 14, 1929; Siam, Nov. 7, 1930; Sweden, July 21, 1930; Uruguay, May 17, 1933; Yugoslavia, July 6, 1931.

Accessions by Finland, Dec. 4, 1931; and Norway, July 1, 1931.

[3] Only the English version is reproduced in this JOURNAL.

Each contracting state reserves also the right in exceptional circumstances in time of peace and with immediate effect temporarily to restrict or prohibit flight over its territory or over part of its territory on condition that such restriction or prohibition shall be applicable without distinction of nationality to the aircraft of all the other states.

Such decision shall be published, notified to all the contracting states and communicated to the International Commission for Air Navigation.

ARTICLE 5

(To be inserted as the last article of Chapter I.)

Each contracting state *is entitled to conclude special conventions* with *non-contracting states.*

The stipulations of such special *conventions shall* not infringe the rights of the contracting parties to the present convention.

Such special conventions in so far as they may be consistent with their objects shall not be contradictory to the general principles of the *present* convention.

They shall be communicated to the International Commission for Air Navigation which will *notify them to* the other contracting states.

ARTICLE 7

The registration of aircraft *referred to in the last preceding article shall be made in accordance with the laws, and special provisions of each contracting state.*

ARTICLE 15

Every aircraft of a contracting state has the right to cross the air space of another state without landing. In this case it shall follow the route fixed by the state over which the flight takes place. However, for reasons of general security, it will be obliged to land or ordered to do so by means of the signals provided in Annex D.

No aircraft of a contracting state capable of being flown without a pilot shall, except by special authorization, fly without a pilot over the territory of another contracting state.

Every aircraft which passes from one state into another shall, if the regulations of the latter state require it, land in one of the aerodromes fixed by the latter. Notification of these aerodromes shall be given by the contracting states to the International Commission for Air Navigation and by it transmitted to all the contracting states.

Every contracting state may make conditional on its prior authorization the establishment of international airways *and the creation and operation of regular international air navigation lines with or without landing, on its territory.*

ARTICLE 34

There shall be instituted, under the name of the International Commission for Air Navigation, a permanent commission placed under the direction of the League of Nations.

Each contracting state may have not more than two representatives on the commission.

Each state represented on the commission (Great Britain, the British Dominions and India counting for this purpose as one state) [4] shall have one vote.

The International Commission for Air Navigation shall determine the rules of its own procedure and the place of its permanent seat, but it shall be free to meet in such places as it may deem convenient.

The duties of this commission shall be:

(*a*) To receive proposals from or to make proposals to any of the contracting states for the modification or amendment of the provisions of the present convention, and to notify changes adopted;

(*b*) To carry out the duties imposed upon it by the present Article and by Articles 9, 13, 14, 15, 16, 27, 28, 36, and 37 of the present convention;

(*c*) To amend the provisions of the Annexes A–G;

(*d*) To collect and communicate to the contracting states information of every kind concerning international air navigation;

(*e*) To collect and communicate to the contracting states all information relating to wireless telegraphy, meteorology and medical science which may be of interest to air navigation;

(*f*) To ensure the publication of maps for air navigation in accordance with the provisions of Annex F;

(*g*) To give its opinion on questions which the states may submit for examination.

Any modification of the provisions of any one of the annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths *of the total votes of the states represented at the Session and two-thirds* of the total possible votes which could be cast if all the states were represented. Such modification shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting states.

Any proposed modification of the articles of the present convention shall be examined by the International Commission for Air Navigation, whether it originates with one of the contracting states or with the commission itself. No such modification shall be proposed for adoption by the contracting states, unless it shall have been approved by at least two-thirds of the total possible votes.

All such modifications of the articles of the convention (but not of the pro-

[4] By a second protocol signed at Paris on Dec. 11, 1929, the words in parentheses were deleted.

visions of the annexes) must be formally adopted by the contracting states before they become effective.

The expenses of the International Commission for Air Navigation shall be borne by the contracting states in the proportion *fixed by the said Commission.*

The expenses occasioned by the sending of technical delegations will be borne by their respective states.

ARTICLE 57

(*First paragraph*)

In the case of a disagreement between two or more states relating to the interpretation of the present convention, the question in dispute shall be determined by the Permanent Court of International Justice. *Provided that, if one of the states concerned has not adopted the protocols relating to the court, the question in dispute shall, on the demand of such state, be settled* by arbitration.

ARTICLE 61

Any state shall be permitted to adhere to the present convention.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering states.

ARTICLE 62

(*Deleted*)

(FINAL CLAUSES)

In faith whereof the hereinafter-named plenipotentiaries whose powers have been found in good and due form have signed the present convention.

The present convention has been drawn up in French, English and Italian.

In case of divergencies the French text shall prevail.

The undersigned, duly authorized, declare that they accept, in the name of the states they represent, the aforesaid modifications, which are proposed for final acceptance by the contracting states.

The present protocol shall remain open for signature by the states which are now contracting parties to the convention; it shall be ratified and the ratifications shall be deposited as soon as possible at the permanent seat of the commission.[5]

It will come into force as soon as the states which are now contracting parties to the convention shall have effected the deposit of their ratifications.[6]

States which may become contracting parties to the convention may adhere to the present protocol.

[5] For list of ratifications and accessions see footnote 2, *supra*, p. 125.

[6] The protocol came into force on May 17, 1933.

A certified true copy of the present protocol shall be transmitted by the Secretary-General to all the contracting states, as well as to the other states signatory to the Convention Relating to the Regulation of Air Navigation.

Done at Paris, this fifteenth day of June, one thousand nine hundred and twenty-nine, in a single copy, which shall be deposited in the archives of the commission.

PIERRE-ETIENNE FLANDIN,
President of the Sixteenth Session of the C.I.N.A.

ALBERT ROPER,
Secretary-General of the C.I.N.A.

(Signed)

For Belgium:
R. VAN CROMBRUGGE

For Great Britain and Northern Ireland:
SEFTON BRANCKER

For Canada:
SEFTON BRANCKER

For Australia:
SEFTON BRANCKER

For New Zealand:
SEFTON BRANCKER

For the Irish Free State:
VAUGHAN B. DEMPSEY

For India:
SEFTON BRANCKER

For Denmark:
HOSKIAER

For France:
P.-ET. FLANDIN
F. CAMERMAN

For Italy:
R. PICCIO
A. GIANNINI

For Portugal:
PROF. DR. LOBO D'AVILA LIMA

For the Territory of the Saar:
J. CHANZY

TURKEY—UNITED STATES

TREATY OF ESTABLISHMENT AND SOJOURN [1]

Signed at Ankara, Oct. 28, 1931; ratifications exchanged Feb. 15, 1933

The United States of America and the Republic of Turkey, being desirous of prescribing, in accordance with modern international law, the conditions under which the nationals and corporations of each of the high contracting parties may settle and carry on business in the territory of the other party, and with a view to regulating accordingly questions relating to jurisdiction and fiscal charges, have decided to conclude a treaty for that purpose and have appointed their plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:
Joseph C. Grew, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Turkish Republic; and

[1] U. S. Treaty Series, No. 859.

THE PRESIDENT OF THE TURKISH REPUBLIC:

Zekâi Bey, Minister for National Defence

who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

With reference to the conditions of establishment and sojourn which shall be applicable to the nationals and corporations of either country in the territories of the other, as well as to fiscal charges and judicial competence, the United States of America will accord to Turkey and Turkey will accord to the United States of America the same treatment in all cases as that which is accorded or shall be accorded to the most favored third country.

Nothing contained in this treaty shall be construed to affect existing statutes and regulations of either country in relation to the immigration of aliens or the right of either country to enact such statutes.

ARTICLE II

The present treaty shall be ratified and the ratifications thereof shall be exchanged at Washington as soon as possible.

It shall take effect at the instant of the exchange of ratifications and shall remain in effect for three years. After the date it shall remain in effect until the expiration of twelve months from the date on which notice of its termination shall have been given by either high contracting party to the other.

IN WITNESS WHEREOF the plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in duplicate in the English and Turkish languages at Ankara this 28th day of October nineteen hundred and thirty one.

J.C.G.	Z.S.
JOSEPH C. GREW	ZEKÂI
[SEAL]	[SEAL]

UNITED STATES

AN ACT TO AMEND THE LAW RELATIVE TO CITIZENSHIP AND NATURALIZATION, AND FOR OTHER PURPOSES [1]

Approved May 24, 1934, 12 noon

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1993 of the Revised Statutes is amended to read as follows:

"SEC. 1993. Any child hereafter born out of the limits and jurisdiction of the United States, whose father or mother or both at the time of the birth of

[1] Public No. 250, 73d Congress. [H. R. 3673]

such child is a citizen of the United States, is declared to be a citizen of the United States; but the rights of citizenship shall not descend to any such child unless the citizen father or citizen mother, as the case may be, has resided in the United States previous to the birth of such child. In cases where one of the parents is an alien, the right of citizenship shall not descend unless the child comes to the United States and resides therein for at least five years continuously immediately previous to his eighteenth birthday, and unless, within six months after the child's twenty-first birthday, he or she shall take an oath of allegiance to the United States of America as prescribed by the Bureau of Naturalization."

SEC. 2. Section 5 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, as amended, is amended to read as follows:

"SEC. 5. That a child born without the United States of alien parents shall be deemed a citizen of the United States by virtue of the naturalization of or resumption of American citizenship by the father or the mother: *Provided,* That such naturalization or resumption shall take place during the minority of such child: *And provided further,* That the citizenship of such minor child shall begin five years after the time such minor child begins to reside permanently in the United States."

SEC. 3. A citizen of the United States may upon marriage to a foreigner make a formal renunciation of his or her United States citizenship before a court having jurisdiction over naturalization of aliens, but no citizen may make such renunciation in time of war, and if war shall be declared within one year after such renunciation then such renunciation shall be void.

SEC. 4. Section 2 of the Act entitled "An Act relative to the naturalization and citizenship of married women," approved September 22, 1922, is amended to read as follows:

"SEC. 2. That an alien who marries a citizen of the United States after the passage of this Act, as here amended, or an alien whose husband or wife is naturalized after the passage of this Act, as here amended, shall not become a citizen of the United States by reason of such marriage or naturalization; but, if eligible to citizenship, he or she may be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

"(a) No declaration of intention shall be required.

"(b) In lieu of the five-year period of residence within the United States and the one-year period of residence within the State or Territory where the naturalization court is held, he or she shall have resided continuously in the United States, Hawaii, Alaska, or Porto Rico for at least three years immediately preceding the filing of the petition."

SEC. 5. The following Acts and parts of Acts, respectively, are repealed: The Act entitled "An Act providing for the naturalization of the wife and minor children of insane aliens, making homestead entries under the land

laws of the United States," approved February 24, 1911; subdivision "Sixth" of section 4 of the Act entitled "An Act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," approved June 29, 1906; and section 8 of the Act entitled "An Act relative to the naturalization and citizenship of married women," approved September 22, 1922, as said section was added by the Act approved July 3, 1930, entitled "An Act to amend an Act entitled 'An Act relative to naturalization and citizenship of married women,' approved September 22, 1922."

The repeal herein made of Acts and parts of Acts shall not affect any right or privilege or terminate any citizenship acquired under such Acts and parts of Acts before such repeal.

AN ACT TO PROVIDE FOR THE REMOVAL OF AMERICAN CITIZENS AND NATIONALS ACCUSED OF CRIME TO AND FROM THE JURISDICTION OF ANY OFFICER OR REPRESENTATIVE OF THE UNITED STATES VESTED WITH JUDICIAL AUTHORITY IN ANY COUNTRY IN WHICH THE UNITED STATES EXERCISES EXTRATERRITORIAL JURISDICTION.[1]

Approved March 22, 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section 591 of title 18 of the United States Code, so far as applicable, shall apply within the jurisdiction of the United States in any country where the United States exercises extraterritorial jurisdiction for the arrest and removal therefrom to the United States, its Territories, Districts, or possessions, including the Panama Canal Zone and the Philippine Islands, or any other territory governed, occupied, or controlled by it, of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any crime or offense against the United States, and shall also apply throughout the United States, its Territories, Districts, and possessions, including the Panama Canal Zone and the Philippine Islands, as well as to any other territory governed, occupied, or controlled by the United States, for the arrest and removal therefrom to the jurisdiction of any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction, of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any crime or offense against the United States in any country where it exercises extraterritorial jurisdiction. Such fugitive first mentioned may, by any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction and agreeably to the usual mode of process against offenders subject to such jurisdiction, be

[1] Public No. 126, 73d Congress. [H. R. 5862]

arrested and imprisoned or admitted to bail, as the case may be, pending the issuance of a warrant for his removal to the United States, its Territories, Districts, or possessions, including the Panama Canal Zone and the Philippine Islands, or any other territory governed, occupied, or controlled by it, which warrant it shall be the duty of the principal officer or representative of the United States vested with judicial authority in the country where the fugitive shall be found seasonably to issue, and of the United States marshal or corresponding officer to execute. Such marshal or other officer, or the deputies of such marshal or officer, when engaged in executing such warrant without the jurisdiction of the court to which they are attached, shall have all the powers of a marshal of the United States so far as such powers are requisite for the prisoner's safekeeping and the execution of the warrant.

SEC. 2. Whenever the executive authority of any State, Territory, District, or possession of the United States, including the Panama Canal Zone and the Philippine Islands, demands any American citizen or national as a fugitive from justice who has fled to the jurisdiction of any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction, and produces a copy of an indictment found or an affidavit made before a magistrate of any State, Territory, District, or possession of the United States, charging the fugitive so demanded with having committed treason, felony or other crime, certified as authentic by the Governor, chief magistrate, or other person authorized to act as such from whence the fugitive so charged has fled, it shall be the duty of the officer or representative of the United States vested with judicial authority to whom the demand has been made to cause such fugitive to be arrested and secured, and to cause notice of the arrest to be given to the executive authorities making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent shall appear within three months from the time of the arrest, the prisoner may be discharged. All costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the State, Territory, District or possession of the United States, including the Panama Canal Zone and the Philippine Islands shall be paid by the executive authority making such demand. The agent who receives the fugitive into his custody shall be empowered to transport him to the jurisdiction from which he has fled, and every person who, by force, sets at liberty or rescues the fugitive from such agent while so transporting him shall be fined not more than $500 or imprisoned not more than one year.

SEC. 3. Whenever, under this Act, it is desired to obtain the provisional arrest and detention of a fugitive in advance of the presentation of the formal proofs, such detention may be obtained by telegraph upon the request of the authority competent to request the surrender of such fugitive addressed to the authority competent to grant such surrender: *Provided,* That such re-

quest for provisional arrest and detention be accompanied by an express statement that a warrant for the fugitive's arrest has been issued within the jurisdiction of the authority making such request charging the fugitive with the commission of the crime for which his extradition is sought to be obtained: *Provided further,* That in the case of a request so made by a State, Territory, District, or possession, the expenses of obtaining a fugitive upon telegraphic request shall be borne by such State, Territory, District, or possession: *And provided further,* That no person shall be held in custody under telegraphic request by virtue of the provisions of this section for more than ninety days.

SEC. 4. The provisions of section 241 of title 18 of the United States Code are hereby made applicable to proceedings in extradition instituted in accordance with the provisions of this Act.

A PROCLAMATION

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

May 28, 1934

[No. 2057]

SALE OF ARMS AND MUNITIONS OF WAR TO BOLIVIA AND PARAGUAY

WHEREAS section 1 of a joint resolution of Congress, entitled "Joint resolution to prohibit the sale of arms or munitions of war in the United States under certain conditions," approved May 28, 1934, provides as follows:

"That if the President finds that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reëstablishment of peace between those countries, and if after consultation with the governments of other American Republics and with their cooperation, as well as that of such other governments as he may deem necessary, he makes proclamation to that effect, it shall be unlawful to sell, except under such limitations and exceptions as the President prescribes, any arms or munitions of war in any place in the United States to the countries now engaged in that armed conflict, or to any person, company, or association acting in the interest of either country, until otherwise ordered by the President or by Congress."

AND WHEREAS it is provided by section 2 of the said joint resolution that—

"Whoever sells any arms or munitions of war in violation of section 1 shall, on conviction, be punished by a fine not exceeding $10,000 or by imprisonment not exceeding two years, or both."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred in me by the said joint resolution of Congress, do hereby declare and proclaim that I have found that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict

in the Chaco may contribute to the reëstablishment of peace between those countries, and that I have consulted with the governments of other American Republics and have been assured of the coöperation of such governments as I have deemed necessary as contemplated by the said joint resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the joint resolution above set forth, hereby made applicable to Bolivia and Paraguay, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

And I do hereby enjoin upon all officers of the United States charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power of prescribing exceptions and limitations to the application of the said joint resolution of May 28, 1934, as made effective by this my proclamation issued thereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the city of Washington this twenty-eighth day of May, in the year of our Lord nineteen hundred and thirty-four, and of the [SEAL] Independence of the United States of America the one hundred and fifty-eighth.

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL,
Secretary of State.

REPORT OF THE LEAGUE OF NATIONS COMMISSION ON THE CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY *

French text signed at Geneva, May 9, 1934

[Translation]

INTRODUCTION

Since June 1932, the Bolivian and Paraguayan armies have been fighting in the Chaco.

Neither of the parties brought the dispute before the League of Nations under the Covenant, and for a long time efforts were made to settle it by negotiations conducted by American States. In view of those negotiations, the Council of the League thought it desirable, in order to avoid a duplication of jurisdictions, to confine its action in the first place to supporting the efforts that were being made in America to secure peace. It continued, however, to follow the question closely. A committee of three of its members (Irish Free State, Spain and Guatemala [1]) was specially appointed to keep it informed of the development of the situation.

On March 6, 1933, the three States represented on that committee, feeling that the situation was steadily growing worse, laid the matter before the Council in virtue of Article 11 of the Covenant. After information had been furnished by the representatives of the parties, the Council's intervention under Article 11 was deferred to enable the action of the adjacent Powers to be pursued on the basis of the agreement signed at Mendoza on February 2 by the Ministers for Foreign Affairs of the Argentine and Chile.

On May 10, the President of the Republic of Paraguay proclaimed that republic to be in a state of war with Bolivia. The latter protested to the Council, urging that Paraguay was placing herself outside the Covenant and incurring the penalties provided under Article 16.

On May 20, the Committee of the Council submitted a report stating that in this conflict the Council's first duty was to endeavor to bring about the cessation of hostilities and a settlement of the dispute. The Council did not consider that it should or need enter into considerations of a different

* Communicated by the Secretary-General to the Council and members of the League of Nations, May 11, 1934. (Official No. C. 154. M. 64. 1934. VII.)

The numbering of the footnotes in this Supplement is different from the footnote numbers appearing in the League of Nations document.—ED.

[1] Guatemala and the Irish Free State subsequently ceased to be members of the Council. They were replaced on the committee of the Council by Mexico and Czechoslovakia.

order. It trusted that it might never be compelled to do so, since it was convinced that, if the parties really desired peace and good relations, they would accept the procedure it recommended to them and, pending the operation of this procedure, would discontinue hostilities, which had already been going on too long.

TERMS OF REFERENCE OF THE COMMISSION DESPATCHED TO THE SCENE OF HOSTILITIES

The procedure recommended by the Council, and the terms of reference of the commission to be despatched to the scene of hostilities in order to set that procedure effectively in motion are defined in paragraphs 9 and 10 of the report of May 20.

These paragraphs read as follows:

9. In conformity with the Covenant, the two countries are under obligation to settle their dispute by pacific means. In order to carry out this obligation, the Council recommends the following procedure: The two Governments would entrust the final settlement of the dispute to an impartial authority, deriving its powers from a treaty binding on both States—namely, the Covenant of the League of Nations. Such an authority, after a thorough study of the question, would fix the frontier between the two countries. Such a procedure connotes: (1) the cessation of hostilities and the withdrawal by Paraguay of the declaration of a state of war with Bolivia; (2) the establishment of an agreement for submission of the dispute to arbitration.

10. In order effectively to establish the procedure for settlement indicated in the preceding paragraph, the Council considers it essential to send to the spot a Commission whose task would be:

(1) To negotiate, if desirable, any arrangements calculated to promote the execution of the obligation to cease hostilities;

(2) To prepare, in consultation with the two Governments concerned, an agreement for arbitration. If the agreement for arbitration does not indicate the arbitrators or the procedure for their appointment, the Council will provide for such appointment and will, if necessary, settle the arbitral procedure;

(3) The Commission will be at the Council's disposal and will keep it informed of the course of its activities. The Commission, at the Council's request, will proceed to make an enquiry on all the circumstances of the dispute, including the part which the two parties have taken therein, and will report to the Council to enable the latter to fulfil the duties imposed upon it by the Covenant of the League of Nations.

At the meeting on May 20, all the members of the Council, except the representatives of the parties, spoke in favor of the report, which was also accepted by the representative of Paraguay. The representative of Bolivia reserved his Government's decision for the time being.

The negotiations conducted by the Committee of the Council with the representatives of the parties, after May 20, showed that a divergence of views, which the Council had already noted, still existed between them. In the view of Paraguay, who had accepted the report of May 20, the final cessation of hostilities, which could only be brought about by an agreement on effective measures of security, should precede the negotiations for the establishment of an arbitration agreement; in the view of Bolivia, the estab-

lishment of the arbitration agreement should precede the cessation of hostilities.

After the Bolivian Government had consented to the arbitration agreement and the suspension of hostilities being negotiated simultaneously, with a view to a combined solution, the Committee of the Council was able, on July 3, to make a further report stating that it had arrived at the conclusion that "the only practical solution would be for the Commission to discharge its functions taken as a whole as best it could, having regard to the situation it found on its arrival, with a view to bringing about a speedy and permanent settlement of the dispute"—which, in the committee's opinion, was "entirely consistent with the terms of the report of May 20."

The representatives of the two parties accepted the report of July 3, and the Council decided that the Commission should sail for South America as soon as possible.

The Commission's terms of reference were thus laid down in the report of May 20, and amplified by the report of July 3; but it is to be observed that, even after the adoption of this latter report, the Paraguayan Government stated on several occasions that it had not abandoned its view that the final cessation of hostilities should have priority over the negotiations on the establishment of an arbitration agreement.

POSTPONEMENT OF THE COMMISSION'S DEPARTURE

The Commission was due to sail for South America at the end of July 1933. On the 26th of that month the Governments of Bolivia and Paraguay proposed to the Council that the Commission's mandate should be entrusted to the four adjacent Powers (the Argentine, Brazil, Chile and Peru).

On August 3, the Council decided to accept the procedure proposed by the two parties jointly. It asked the adjacent Powers whether they would agree to endeavor to suggest to the parties a formula such as would establish a just and lasting peace between them.

Consultations and exchanges of views among the adjacent States continued during August and September. On October 1, they informed the Council that they could not accept its invitation. The Committee of the Council then made arrangements for the League Commission to sail as soon as possible.

THE COMMISSION'S DEPARTURE. ITS CONSTITUTION AT MONTEVIDEO

On October 13, the European members of the Commission sailed for South America, where they were to be joined by their Mexican colleague. While their ship was in port at Rio de Janeiro, they were received by the Brazilian Minister for Foreign Affairs, who had presided over the negotiations of the adjacent Powers. In the course of two conversations, M. de Mello Franco was good enough to explain the difficulties encountered during those negotiations, and to hand to the Commission the correspondence

which the two parties had exchanged with the adjacent States, and which the latter had decided to communicate to the Council.

The Commission was constituted on November 3 at Montevideo.

It comprised:

His Excellency Count Luigi Aldrovandi, Ambassador (*Italian*);
His Excellency Monsieur Julio Alvarez del Vayo, Ambassador (*Spanish*);
Général de division Henri Freydenberg (*French*);
Major Raúl Rivera Flandes (*Mexican*);
Brigadier-General Alexander Robertson (*British*).

M. Julio Alvarez del Vayo was elected Chairman.

The Commission was accompanied by Dr. J. A. Buero, Legal Adviser to the Secretariat of the League of Nations, to whom the Secretary-General of the League had entrusted the duties of Secretary-General of the Commission, and by M. H. Vigier, Counsellor in the Political Section of the Secretariat.

The Government of Uruguay gave the Commission a most cordial welcome. The Commission had the honor of being received by the Minister for Foreign Affairs, and subsequently by the President of the Republic, His Excellency Dr. Terra. They promised to give the Commission all possible assistance, and this was particularly valuable as the Seventh International Conference of American States was to open at Montevideo, Uruguay presiding, in the following month.

ESTABLISHMENT OF CONTACT BETWEEN THE COMMISSION AND THE REPRESENTATIVES OF THE PARTIES

The Council had conferred upon the Governments of Bolivia and Paraguay the right to send assessors to represent them before the Commission.

The Paraguayan Government appointed Dr. Venancio B. Galeano, who, immediately upon the arrival of the Commission at Montevideo, established contact with it, made a statement of his Government's views, and invited the Commission to visit Paraguay.

The attitude of the Bolivian Government was at first different. It did not appoint an assessor, and its Minister at Montevideo sent the Commission a note, dated November 4, containing the following statements:

(1) Bolivia has already declared and now repeats that she is prepared to submit the present dispute with Paraguay to the League of Nations for consideration, provided that the purpose of the League is merely to re-establish peace either by an honorable compromise or by arbitration, and that in any case methods of procedure are adopted which are compatible with the respect due to the principle of national sovereignty.

(2) Bolivia has made repeated suggestions to the Council in this sense since the League first intervened in May of this year. On the last occasion, on October 7, we proposed that the Commission should deal with two points: (*a*) it should seek a direct solution of the dispute, and (*b*) if such an arrangement was not feasible, it should study the possibility of determining the zone to be arbitrated upon.

(3) Provided the functions of the Commission are kept within these limits, the Government of Bolivia will take part therein and will appoint its representatives for this purpose.

(4) Bolivia does not and will not agree to any functions of a judicial character which the Commission might endeavor to exercise either on its own initiative or on the instructions of the League. Such functions would affect the sovereignty and independence of the nations and would only complicate the international situation and still further embitter the present dispute.

(5) Bolivia will only be able to take part in peace discussions based on respect for the freedom of the individual peoples under the friendly guidance of the League of Nations. In order to decide on her attitude, she would be glad to know the instructions given to the Commission and its immediate programme of work.

To this note the Commission replied on November 6 with the following communication:

The Commission is able to give the Bolivian Government the assurance that it intends to carry out the mission entrusted to it by the Council of the League of Nations with scrupulous respect for the principle of the national sovereignty of Bolivia and Paraguay within the framework of the Covenant of the League. There is no need for the Commission to recall its terms of reference. They are referred to in the report unanimously adopted at Geneva on July 3, 1933, and the Council relies on the Commission to discharge its functions taken as a whole as best it can, having regard to the situation it finds on arrival, with a view to bringing about a speedy and permanent settlement of the dispute.

The Commission therefore considers it desirable to begin its work by a careful examination of the situation. Certain factors in that situation are already known to the Commission, particularly through the documents exchanged in August and September between the Governments of the adjacent States and the Governments of Bolivia and Paraguay. But the Commission is unanimously of the opinion that, in order to be able fully to appreciate the situation, it must as soon as possible establish direct contact with the Governments of both nations by visiting the two countries concerned.

The Assessor of Paraguay has already informed it that his own Government is very anxious that the Commission should proceed as soon as possible to Paraguay, and has at the same time asked to be heard by it. At today's meeting, the Assessor had an opportunity of laying his views before the Commission.

The Commission has the honor to enclose herewith the text of the *communiqué* which it issued to the press at the end of its first meeting.[2] It believes that this text will enable the Bolivian Government to judge of the spirit of cordial friendship and the desire for sincere coöperation with which it has entered upon a task whose difficulties it fully realizes. It believes, nevertheless, that these difficulties can be overcome if the two countries parties to the dispute will grant it their unreserved confidence and coöperation.

On November 9, the Bolivian Minister communicated the following note to the Commission:

The Bolivian Government is glad to hear of the Commission's intention to carry out its mission with scrupulous respect for the principle of national sovereignty.

It is also gratified to hear that the Commission proposes to visit La Paz, where my Government will give it the most cordial welcome.

Bolivia will appoint her representative on the Commission in order that he may take part in its proceedings in accordance with the communication made to the Committee of Three on October 13.

The Bolivian Government takes this opportunity of renewing the assurance that it sincerely desires to consider proposals for settlement relating directly to the solution of the dispute and the immediate restoration of peace.

[2] See Annex 1.

The Bolivian Government then appointed Dr. Julio A. Gutierrez as Assessor attached to the Commission, assisted by Dr. Luis Fernando Guachalla and Dr. Miguel Mercado Moreira.

ITINERARY AND NEGOTIATIONS OF THE COMMISSION

Having been invited first by the Government of Paraguay, the Commission proceeded to that country by river, after calling on the Argentine Minister for Foreign Affairs on November 15 at Buenos Aires. Dr. Saavedra Lamas described to the members of the Commission the difficulties which had been experienced in the past and assured them that the Argentine Government, being a member of the Council, would give them, as the Council's mandatories, every assistance that lay in its power.

Immediately after its arrival at Asunción, the Commission had important interviews, on November 18 and 19, with the President of the Republic and the representatives of the Government. On their invitation it then, from November 20 to 28, paid a rapid visit to the eastern part of the Chaco. Ascending the Paraguay River as far as Coïmbra (Brazil), the Commission was able, at the places of call, to visit the most important industrial establishments and farming enterprises, and also the headquarters of the Commander-in-Chief of the Army, at Isla Poí. The military members then proceeded to the front, while the civilian members continued their study of the Chaco, where they visited the Mennonite colonies. During this journey the Commission also instructed one of its members, Major Rivera Flandes, to proceed up the River Paraguay to the north of Coïmbra. A Paraguayan seaplane took Major Rivera Flandes to the Brazilian port of Corumba, whence he continued his journey to the Bolivian port of Puerto Suarez.

This journey enabled the members of the Commission to obtain direct information on two points of importance in the conflict: the colonization of the Chaco and the navigability of the River Paraguay. The military members of the Commission were also able to collect data and to acquire a personal impression of the character of the Chaco hostilities.

On its return to Asunción, the Commission had further interviews with the members of the Paraguayan Government. Being by then fully acquainted with the views of that Government, it left on December 1 for Formosa (Argentine), whence, by the Argentine Chaco railway, it reached the international Buenos Aires-La Paz line.

The Commission arrived at La Paz on December 5. Next day it began its negotiations with the President of the Republic and the representatives of the Government,—in particular, the Minister for Foreign Affairs and the Assessors appointed to the Commission.

In the course of these conversations, the Commission endeavored to bring the respective views of the Bolivian and Paraguayan Governments closer together. On December 12, it communicated to Asunción and to the Bolivian Chancellery the main lines of a draft agreement for the settlement

of the substantive question which could, it thought, be accepted by both parties. The Commission added that the final agreement would also include certain security clauses which it was still studying. On the following days, the conversations on questions of security were in fact continued by the military members of the Commission with the military experts appointed by the Government, and the Commission was able to inform the Paraguayan Government that the results of these conversations were such as would meet its wishes.

The Paraguayan Government, in its reply, reminded the Commission of its opinion that, in the first place, an end must be put to hostilities, but it did not fully express its views on the proposals submitted to it. The Commission therefore decided to adopt a new method of procedure. It thought that some of its members might immediately leave for Asunción and that then the negotiations might be continued simultaneously in the two capitals. The military members remaining in Bolivia would visit the front.

PARAGUAYAN PROPOSAL FOR AN ARMISTICE

Just as this plan was about to be put into practice the Commission, which on the previous days had been hearing from various sources that important successes had been obtained by the Paraguayan army in the Chaco, received a telegram on December 18 from President Eusebio Ayala, proposing: (1) a general armistice from midnight on the following day until midnight December 30; (2) the negotiation of conditions for security and peace, in a Rio de la Plata capital, where the Commission would invite the belligerent parties to appear before it.

The Paraguayan Government pressed for a direct and urgent reply which would enable it to order the suspension of hostilities.

The Commission unhesitatingly recommended the Bolivian Government to accept a proposal that would put a stop to bloodshed and enable accredited representatives of the two countries to begin peace negotiations.

The Bolivian Government accepted the armistice, and the Commission modified its previous decision and left immediately for Montevideo, after summoning the plenipotentiaries of the two parties to that capital.

THE COMMISSION AND THE INTERNATIONAL CONFERENCE OF AMERICAN STATES

On arriving at Montevideo, the Commission was most cordially welcomed by the International Conference of American States, which was still in session.

On December 24 the Conference adopted a resolution in which "it extended a cordial greeting to the Commission, whose high purposes make it worthy of the recognition of the nations of America." At the same time, on the proposal of the Chilian Minister for Foreign Affairs, the Conference decided to invite the Commission and the plenipotentiaries of Bolivia and Paraguay to be present at its final meeting.

On the same day, the Argentine delegation submitted a resolution which stated that "if the representatives appointed by the League of Nations to study the problem of the Chaco Boreal and the mutual relations between the Republics of Bolivia and Paraguay deem it desirable, in order to reach a full and final settlement, that a conference of the adjacent countries should meet to consider the coördination of all the geographical and economic factors which might contribute to the development and prosperity of the sister nations, the Pan American Union might convene this conference in the city of Buenos Aires at an opportune moment, all the countries represented at the Seventh International Conference of American States undertaking to coöperate to the fullest extent with a view to securing this highly desirable result."

Naturally the Commission attached great importance to the possibility thus afforded to it by the International Conference of American States through Dr. Saavedra Lamas' proposal that economic problems, the solution of which appeared in any case to be eminently desirable, should be studied at an opportune moment by a competent and qualified body.

At the final meeting of the International Conference of American States (December 26, 1933), Mr. Cordell Hull, United States Secretary of State, proposed the following resolution:

> Whereas the representatives of Bolivia and Paraguay are bound by the Covenant of the League of Nations to submit their dispute to pacific settlement;
>
> Whereas the Council of the League has, with the concurrence of both parties, sent to the fighting zone a Commission to help them to bring about a final cessation of hostilities and a definitive settlement of this long-standing controversy;
>
> The Seventh International Conference of American States resolves:
>
> (1) To express the unalterable opinion that the question of honor is not now involved as to either nation, but that both parties can cease fighting with entire credit to themselves and hence fighting cannot possibly be justified;
>
> (2) That this Conference, equally friendly to both countries, earnestly requests the officials, and through them the citizens, of both nations to accept juridical methods for the solution of the dispute, as consistently recommended by the Commission of the League of Nations and by the Sub-Committee of this Conference, which has dealt with the question of the Chaco, presided over by His Excellency President Terra of the Republic of Uruguay.

After the adoption of this resolution, the Commission and the plenipotentiaries of the countries parties to the dispute were received by the International Conference of American States at a plenary meeting, and all the speeches made on this occasion testified to the desire of the delegates of the American nations to see a successful issue of the Commission's efforts at an early date.

EXPIRY OF THE ARMISTICE

Notwithstanding the hopes of the International Conference of American States, the Commission was faced by great difficulties. Even before the return of the Commission to Montevideo, the Bolivian Government had

accused the Paraguayan army of continuing operations during the armistice. The accusations of Bolivia were indignantly denied by Paraguay. In spite of the intervention of the Commission, the appeals which it at once addressed to the two Governments, and the explanations which it requested and which were received from the Governments, the differences with regard to the violation of the armistice created an atmosphere of tension unfavorable to peace negotiations. The period for which the armistice had been concluded was a brief one: it was to expire on December 30; and the Commission was kept waiting until the 29th for the arrival of Colonel Garay, the Paraguayan military expert, whose journey by air to Montevideo was held up by unforeseen delays.

In view of this situation, the Commission at first made every possible effort to secure an extension of the armistice to January 14. Paraguay, as a result of a telephone conversation between the President of the Commission and Asunción, agreed to an extension to the 6th. This short respite enabled the Commission to act on a proposal by the Paraguayan plenipotentiary, Dr. Zubizarreta, and the Foreign Minister, Dr. Benitez, who had strongly urged that the Commission should again visit Asunción with a view to obtaining a direct impression as to the attitude in their country.

A delegation of the Commission, composed of the President, General Freydenberg and M. Vigier, proceeded by air to Asunción on January 1. The other members of the Commission and the plenipotentiaries of the two parties continued their conversations at Montevideo, and later at Buenos Aires, where they awaited the return of the delegation. The latter returned from its rapid visit to Paraguay with the conviction that it was for the moment impossible to effect any *rapprochement* between the standpoints of the two Governments in regard to the settlement of the substantive question.

The armistice was to expire in the night of January 6. During the forty-eight hours remaining, the Commission endeavored in vain to find a basis of understanding which would enable Paraguay to consent to an extension. The efforts of the Commission came to an end with the termination of the armistice, and the Commission informed the Council as to the situation and awaited its decision.

RESUMPTION OF NEGOTIATIONS BY THE COMMISSION ON THE BASIS OF THE COUNCIL'S REPORT OF JANUARY 20, 1934

On January 20 the Council, noting that both parties desired the Commission to resume its work, empowered the latter to "try every means of reaching a settlement . . . the essential aim being to arrive at a solution which will ensure peace and good relations between the parties."

The Commission, being invited by the Council to "resume, in conjunction with the parties, the study of all the aspects of the problem and the practical possibilities of a solution," again entered immediately into relations with the plenipotentiaries. It found itself faced once more with the same ir-

reconcilable standpoints. Paraguay was not prepared to cease hostilities except under agreement the essential purpose of which would be the safeguarding of security, leaving the settlement of the substantive question for future negotiations, unless Bolivia was prepared to abandon at once all claim to a very large part of the Chaco. Bolivia insisted on the conclusion of an agreement for the settlement of the substantive question, the security clauses being in her opinion a secondary issue.

PARAGUAYAN PROPOSAL

Dr. Zubizarreta, the Paraguayan plenipotentiary, went to his own country on January 25, and on February 7 brought back a formula which placed the security clauses in the forefront, and by way of settlement of the substantive question provided only for an undertaking "to settle the frontier question by legal arbitration"; the negotiation of the arbitration agreement was deferred until after the ratification of the peace treaty, and the arbitration agreement itself, if negotiated, was also to be ratified by Congress.

The Bolivian Government declared this procedure to be inacceptable, inasmuch as it afforded no guarantee of a settlement of the substantive question.

THE COMMISSION'S PROPOSAL

At that juncture, the Commission, making a fresh effort to reconcile theses that appeared irreconcilable and earnestly begging the parties not to reject without mature reflection a peace that would be honorable to both, handed a draft treaty of peace and security to the delegates of the two countries.

This draft was not accepted by either Government, and experience quickly showed that the pursuit of the negotiations suggested by Bolivia in the document put in reply to the Commission's draft was out of the question for the time being.

THE COMMISSION'S RETURN

In those circumstances, the Commission decided to go to Geneva, and there to draw up its report to the Council, leaving Dr. Buero behind to keep it informed of any developments that might occur and to be at the disposal of the parties whenever they might desire to make contact.

The Commission does not wish to conclude this introduction to its report without thanking the American nations for the cordial welcome it received from their representatives at the Montevideo Conference in December and for the constant interest they have taken in its work.

It also desires to thank the Governments of the two contending countries for all the facilities they have given it in discharging its functions. The Commission feels that by its sincere efforts to grasp a delicate situation and to comprehend acute national susceptibilities it has earned the confidence

accorded to it in the two contending countries. It has received numerous proofs of that confidence, but will mention only those which immediately preceded its departure from America. In its communication of March 3 rejecting the Commission's proposals, the Paraguayan delegation stated that the observations it had made "in no sense implied any lack of appreciation of the Commission's noble efforts." When acknowledging receipt of the Commission's note informing him of its departure, the Bolivian plenipotentiary likewise thanked the Commission for its "noble efforts on behalf of peace."

Lastly, the Commission is bound to express its great appreciation of the hospitality which it received, for its negotiations with the parties, from the Governments of the Argentine and Uruguay. It does not forget that the latter Government was kind enough to welcome its members as guests of honor when the peace negotiations opened in December 1933, and that at Buenos Aires, as at Montevideo, it met with active and constant sympathy.

Chapter I

GEOGRAPHICAL FACTS CONCERNING THE CHACO.[3]

There is a great diversity of opinions both as to the boundaries of the Chaco and as to its wealth and possibilities of development. The Commission, while making use of the information it has been able to obtain during its tour, and supplementing that information by other particulars which have been carefully verified, thinks that it may be well to mention certain essential geographical facts.

Boundaries of the Chaco

(A) THE PARAGUAYAN VIEW

"Geographically," writes General Belaïeff, "the Chaco lies between meridians 57° 34′ 28″ and 63° 26′ 54″ west of Greenwich and parallels 17° 55′ 43″ and 25° 21′ 41″ south. Bounded on the east by the River Paraguay, it is separated from Bolivia on the north by the Chochi Mountains and the Rio Negro, and on the west by part of the course of the River Parapiti and the Sierra de Chiriguaná, as far as the Pilcomayo, to the south of which lies the Argentine Chaco. The area of the Chaco is about 297,938 square kilometres."[4]

These boundaries of the Chaco are those given in most Paraguayan pub-

[3] In this report, the word "Chaco" means the "Chaco Boreal"—that is to say, the part lying north of the River Pilcomayo. The "Chaco Central" and "Chaco Austral," to the south of that river, belong to the Argentine Republic.

[4] Article by General J. Belaïeff in the national almanac *La Rural*, second year, Asunción, 1931. General Belaïeff, who accompanied the Commission to the Chaco, proved himself a guide excellently informed of the geography and ethnography of that area.

lications. They are those of Luis de Gásperi's *Geography of Paraguay*,[5] in which "the data relating to the area, length of boundaries, and geographical nomenclature of the Republic have been extracted from the land register and supplied by the National Survey Department." They are the boundaries mentioned by the representative of Paraguay, first in the Council on February 3, 1933,[6] and subsequently in his letter to the Secretary-General, dated June 6, 1933.[7]

Most of the Paraguayan maps show the same boundaries: the map of the Chaco in the *General Atlas of the Republic of Paraguay*, by Federico E. de Gásperi, Chief of the Cartographical Section of the National Survey Department (first edition, Buenos Aires, 1924) an economic map of the Paraguayan Gran Chaco (undated), published by the Paraguayan Committee at Buenos Aires, etc.

Recently, however, certain publications have no longer confined the Paraguayan claims to these "natural boundaries," which, according to many Paraguayan authors, and according to M. Caballero de Bedoya's letter of June 6, 1933, "coincide with the historical boundaries of the old province of Paraguay to the west of the river of that name."

Dr. Adolf N. Schuster, in his book on Paraguay published in 1929,[8] states that, for all the maps included, the Government of that country supplied him with the latest information available, and that he consequently gives two frontier-lines for the northeastern Chaco. The first of these frontiers represents the traditional claims mentioned above, except in the eastern part, where this frontier-line, meeting the River Paraguay a little below the Brazilian fort of Coïmbra, consequently includes in the "western region of the Republic of Paraguay" the territory bordering upon the River Paraguay which Brazil has ceded to Bolivia to the north of Bahia Negra. The other frontier shows yet another variant of the Paraguayan claims. It deprives Bolivia of any access to the River Paraguay by making the Paraguayan Chaco contiguous to Brazil as far as north of the Oberaba Lagoon, between parallels 17° and 18°.

This same frontier, but prolonged still further northward, is to be found in a map of Paraguay "containing the latest geographical data," drawn in 1933 by the cartographer of the Boundary Commission of the Paraguayan Ministry of Foreign Affairs, M. Raul del Pozo Cano. According to this map, Paraguay possesses to the north of Bahia Negra, along the Brazilian frontier, a strip of territory extending beyond parallel 16° 30′. The northern limit of this territory is not shown on the map, which stops above that parallel.

[5] Luis de Gásperi, *Geografía del Paraguay*, first edition, Buenos Aires, 1920. This is a work approved by the Paraguayan National Board of Education.

[6] League of Nations Official Journal, February 1933, page 261.

[7] League of Nations Official Journal, June 1933, page 781.

[8] Adolf N. S. Schuster: *Paraguay: Land, Volk, Geschichte, Wirtschaftsleben und Kolonisation*, Stuttgart, 1929.

The Commission found an allusion to this recent extension of the Paraguayan claims in Dr. Eusebio Ayala's preface to Dr. Efraïm Cardozo's book *El Chaco en el Régimen de las Intendencias*, published at Asunción in 1930.

> Unhappily [wrote Dr. Ayala], under the mask of patriotism, there are symptoms, in a certain section of public opinion in our country, of a prematurely uncompromising spirit, and of theories conflicting with the desire for concord and harmony by which our international conduct should at all times be inspired. We have lately witnessed discussions in which Brazil was condemned for having ceded ports to Bolivia to our detriment. In certain political circles a theory has sprung up, the effect of which would be to imprison Bolivia in her mountains, allowing her no access to the river, and thereby depriving her of the status of a riparian nation of the basin of the River Plate. Such a view can be accepted only by persons who are blinded by prejudice.

This extension of the Paraguayan claims in the Northern Chaco naturally disquieted Bolivia.

(B) THE BOLIVIAN VIEW

In Bolivia's view, the Chaco forms the southeastern part of her territory, between the Rivers Paraguay and Pilcomayo, down to their confluence. Whereas Paraguay's tendency has been to seek the geographical and historical boundaries of her "western region" as far north and west as possible, Bolivia's tendency has been to reduce the territory which she would admit to be disputed, as far as possible, to the angle formed by the two rivers.

In his little monograph on the Chaco, Father Julio Murillo [9] expresses the current opinion of Bolivian publicists when he describes the Chaco as "a triangle with its apex to the south and its eastern and western sides formed by the Rivers Paraguay and Pilcomayo respectively," and adds: "we might fix its base at parallel 21°, between Olimpo and Villa Montes. This triangle, to which the name of Chaco Boreal should be confined, is believed to have an area of some 170,000 square kilometres."

Parallel 21° is also mentioned in the monograph by Dr. Ricardo Mujía, whose thesis is, moreover, that the name of "Chaco" was not always given to the region between the Rivers Pilcomayo and Paraguay, to the south of parallel 21°, but that, according to certain documents of the colonial period, the Chaco was situated south of the Pilcomayo.[10]

Paraguayan publicists have made numerous protests against this idea of fixing an area bounded on the north by a parallel, and possibly on the west by a meridian, as the subject of the dispute. Indeed, if the only question to be arbitrated upon were that of the ownership of a zone so delimited, Paraguay could not maintain her view that the arbitrator should fix the limits between the old province of Paraguay, to the west of the river of that name, and the provinces of Upper Peru, out of which Bolivia has been formed.

[9] Father Julio Murillo, S.J., *Monografia del Chaco*, a publication of Propaganda and National Defence Centre, La Paz, second edition.

[10] Ricardo Mujía: *El Chaco*, an historical and geographical monograph (official publication), Sucre, 1933.

The Different Regions of the Chaco

"Until recent years," wrote General Belaïeff in 1930, "the western region of Paraguay (the Chaco) appeared on imperfect maps as full of blank spaces, with the significant remark 'wholly unexplored'; and it is true that few people were venturesome enough to leave the river-bank, and then only for a few days. . . . During the last five years there has been a great change. Today there are roads and even railways. . . . The Chaco is so diversified; there are in that vast region such different conditions that it is impossible to gain an accurate idea of it without studying the entire area. Those who are not well acquainted with it continue to leap to rapid or premature, and frequently paradoxical, conclusions." [11]

In point of fact, the Chaco is not, or at least is by no means wholly, that uninhabitable "green hell" spoken of in certain travel-books, or perhaps it would be more accurate to say by readers of those books who have not studied the authors' itineraries on the map. The forest in the north and west—the Gran Selva—almost waterless is forbidding; but neither the central savannah nor the slightly lower-lying and generally flat and marshy peripheral belt, which extends along the Rivers Paraguay and Pilcomayo and has an average depth of from 100 to 200 kilometres, can be regarded as uninhabitable. Indeed, in both those areas interesting experiments in colonization and development have been made, though almost all these took place in the eastern region, where Paraguay exercises *de facto* possession.

(A) The Paraguayan Zone of Occupation along the River Paraguay

Going up the River Paraguay from Asunción to Bahia Negra, we come first, on the Chaco bank, to *Villa Hayes*, which, founded in the middle of last century 30 kilometres from the capital, is today the centre of an agricultural population of some 10,000 souls, and has a large refinery (capital, 100,000 gold pesos). Further on, 75 kilometres from Asunción, is *Puerto Emiliano* (30,000 head of cattle).

Much further north, beyond the tropic in the torrid zone, tannin-producing establishments alternate with stock-breeding *estancias*—Puerto Cooper, an *estancia* belonging to the Argentine Cattle Co., an English company (over 7,000 inhabitants, two million gold pesos capital), and Puerto Pinasco, the property of the International Products Company (an American company with a capital of over four million gold pesos, employing 2,300 workers). A narrow-gauge railway brings the quebracho, the red ironwood "that breaks the axe," richer in tannin than any other tree, from the fellings in the interior, which are 75 kilometres from the works on the bank of the River Paraguay. Pinasco produces 2,000 tons of tannin extract per month, and the cattle on its *estancias* are estimated at 50,000 head. Pinasco is a complete self-

[11] Introduction to General Belaïeff's article in the national almanac *La Rural*, second year, Asunción, 1931.

supporting concern which has, in addition to its railways, its repair-shop, its telegraph and telephone lines, its fleet of tugs and barges, its hospital, its school, etc.

The same is true of *Puerto Casado*, 80 kilometres upstream from Pinasco; it is the property of the Argentine firm of Carlos Casado, and covers, according to Paraguayan publications, 1,400 square leagues, or more than four million hectares,[12] and has a population of about 3,000. The capital of the undertaking is estimated at 1,500,000 gold pesos. There are 200 kilometres of railway connecting the fellings in the forest with the port, where the tannin factory is situated, surrounded by the church, hospital, school, hotel, etc. There are 80,000 head of cattle on the *estancias*. The undertaking, which is always under the personal direction of a member of the Casado family, is also making interesting agricultural experiments in the Chaco (growing cereals, cotton, etc.).

Further north, *Puerto Sastre* (5,000 inhabitants), the property of an Argentine company with a capital of over two million gold pesos, and *Puerto Guaraní* (2,500 inhabitants), also belonging to Argentine capitalists, are other important tannin-producing and stock-breeding centres.

In the north there is also an agricultural population surrounding two positions occupied by Paraguay—*Fuerte Olimpo*, the former Fort Borbón, built by the Spaniards of Paraguay in 1792 to keep out the Portuguese, and *Bahia Negra* (2,000 inhabitants), situated on a bay immediately south of the confluence of the River Paraguay and the Rio Negro (or Otuquís), which bay plays an important part in the history of the relations between Bolivia and Paraguay, for in 1888 the Paraguayans expelled the Bolivians, who had endeavored to secure access to the river at that point by founding *Puerto Pacheco*.

(B) THE PARAGUAYAN ZONE OF OCCUPATION IN THE INTERIOR

In the savannah of the interior occupied by Paraguay, the degree of economic development is, of course, much less advanced than along the river where the exploitation of quebracho has attracted foreign capital, stock-breeding and agriculture being as a rule regarded by the foreign capitalist as subsidiary to the manufacture of tannin.

Although the immense savannah of the the interior has been parcelled out by the Paraguayan Government and is shown on the map cut up into vast quadrangular tracts that have been granted to a comparatively small number of companies or individuals (the extent of the Casado estates has already been mentioned), the absence of communications and the lack of water have, until recently, constituted serious obstacles to colonization. The hostilities have obliged the army to make broad trails and to bore wells. The narrow-gauge railways built for the quebracho industry, though none of

[12] The founder of the Casado family, a Spanish pioneer in the Argentine, acquired 75,000 square kilometres of land when Paraguay was parcelling out the Chaco (1885).

them lead to a greater distance than 200 kilometres from the river, can be prolonged, and roads can be made on some of the trails. The central Chaco, once it is brought nearer to markets and to civilization in this way, will support a larger population: the *salt campos* provide good pasture, and water for agriculture is found under the impermeable clay stratum.

In the colonization of the central Chaco, the most important work is at present being done by the Mennonites. It began six years ago on land sold to the colonization company by the Casado firm, 200 kilometres from the River Paraguay. The immigrants belonging to the religious sect of Mennonites, who are mostly of Canadian or Russian origin, live in some twenty villages. The Mennonites have been granted a special and very favorable position under Paraguayan law. They are forbidden by their religion to carry arms, and they take no part in the present war, during which they continue to build their villages and clear the land.

To sum up, it may undoubtedly be said that, thanks to the considerable capital, largely foreign, invested in the settlements along the river, and also to some tentative immigration into the interior, the eastern part of the Chaco occupied by Paraguay has recently undergone a development [13] which Paraguay puts forward as a further reason why she should retain the bank of the River Paraguay and its Hinterland in any agreement which may be concluded. Paraguay points out that, in contrast to these efforts, Bolivia has not developed in the same way the part of the Chaco she has occupied.

(c) THE BOLIVIAN ZONE OF OCCUPATION ALONG THE PILCOMAYO

In Bolivia, the "Paraguayan effort" is mainly regarded as the work of foreign capitalists who, under the protection of the Paraguayan army, exploit the eastern Chaco and help Paraguay to retain a disputed territory. The Bolivians protest, moreover, against the assertion that their work in the Chaco has been purely military and that, as Dr. Eusebio Ayala wrote in 1930 in the introduction to Dr. Efraim Cardozo's book which we have already quoted: "there is no Bolivian population in the Chaco outside the forts and the few civilian settlements that are growing up round the military posts."

When, after the declaration of a state of war by Paraguay (May 13, 1933), the Argentine Government decided, in order to observe neutrality in the conflict, to take certain measures, including the closing of the Pilcomayo frontier to the north of which military operations were taking place, one of

[13] According to Paraguayan publications, the average annual exports of quebracho extract, which in 1913 amounted to 12,000 tons, have, since 1925, exceeded 50,000 tons and their value 3,500,000 gold pesos. (In the last three years, the price of tannin has fallen by half.) It is also estimated that there are two million head of cattle in the Chaco.

It is difficult to estimate the amount of Paraguayan and foreign capital invested in the Chaco. The Paraguayan assessor gave the Commission the figure of 200 to 260 million gold pesos. According to Paraguayan publications, the total capital of the chief companies with interests in the Chaco amounts to about 17 million gold pesos.

the reasons given by the Argentine Ministry for Foreign Affairs for closing Puerto Irigoyen opposite the Bolivian post of Linares was that in the region of the Chaco Boreal, on the other side of the frontier, there was no civilian population with whom trade could be carried on. "Puerto Irigoyen," it was stated in the Argentine note of June 7, 1933, "merely provides a possibility of communication with desert areas situated north of the Pilcomayo frontier which have been occupied incidentally by the passage or the presence of an army."[14] The Bolivian Minister at Buenos Aires protested against the closing of this frontier, and maintained that there was an agricultural population along the left bank of the Pilcomayo for a distance of eighty leagues, from parallel 22° to the most advanced Bolivian posts.

The Commission, which, as previously stated, was prevented by the entry into force of the armistice and the immediate opening of peace negotiations at Montevideo from visiting the western Chaco on its return from La Paz, was unable to ascertain on the spot the size of this agricultural population, which, according to the Paraguayans, is small or non-existent. In any case, it is certain that there can be no comparison between the development of the left bank of the Pilcomayo, a river which is incapable of carrying any important traffic, and the development of the right bank of the River Paraguay.

Bolivian writers themselves recognize that the "ethnography of the Chaco is a dark page in our national history." "In the administrative plan adopted by the Republic, the occupation of the territories inhabited by savage tribes and the encouragement of immigration for the colonization of these territories were left entirely to the hazards of the future. In the Chaco, while the civilized population diminished instead of increasing, the indigenous population defied for three centuries the authority of the conquistadors and continually flouted the Republic. Nearly all the survivors—greatly reduced in number—of the natives of the Chaco have crossed the Pilcomayo to seek better conditions in the Argentine. The only effective work done among the uncivilized tribes in the past century—and then only on the threshold of the Chaco—was that of the Franciscan missionaries. On the foundation they laid, it was possible to begin the effective occupation of the Chaco in the present century."[15]

(D) OIL-BEARING ZONE

The recent effective occupation, which was essentially military along that part of the Pilcomayo that separates the Chaco Boreal from the Argentine, presents a different character in the higher region lying further west. The oil, which, according to certain unverified reports, exists everywhere in the Chaco, has been actually discovered in the western region which the Para-

[14] Argentine Neutrality in the Conflict between Bolivia and Paraguay, published by the Argentine Ministry for Foreign Affairs, Buenos Aires, 1933, page 28.

[15] Father Julio Muriño, S.J., *op. cit.*

guayan army has recently approached. It was in the forest between the River Parapiti and the Upper Pilcomayo that the author of *Green Hell*[16] came upon the agents of the Standard Oil Company and the derrick of Camatindi, to the north of Villa Montes. In 1927, when the Argentine established a national oil monopoly, the agents of the Standard Oil Company apparently left the northern Argentine and, carrying their material into Bolivia via Yacuiba, took an active interest in the deposits on the other side of the frontier. At present, production appears to have stopped, these deposits being retained as a kind of reserve, which now seems to be attracting the special attention of the Governments concerned.

(E) BOLIVIAN ZONE OF OCCUPATION IN THE NORTH

Apart from the Paraguayan posts, which on the right bank of the Rio Negro (or Otuquís) protect the approaches of Bahia Negra to beyond latitude 20°, the northern zone has been partially occupied by Bolivia.

In the region between the Rio Otuquís and the Brazilian frontier, near latitude 19° 30′, Bolivia has built posts opposite the advanced Paraguayan posts, and it will be remembered that this area was the scene of the incidents of December 1928 which led to the intervention of the League Council, then sitting in ordinary session at Lugano, the question being subsequently settled by the Commission of Enquiry appointed by the International Conference of American States on Conciliation and Arbitration.

Southeast of this line of posts, Bolivia, as already mentioned, acquired from Brazil territories on the borders of the Chaco between Bahia Negra and Coïmbra by the Treaty of Petropolis (1903). In this area, which is somewhat difficult of access from the interior, Bolivia has established no port.

Further north, a sparse Bolivian population is scattered along the track which, north of the Rio Otuquís, connects Puerto Suarez (on the Caceres Lagoon communicating with the River Paraguay) with Robore and San José, and then goes on to Santa Cruz, west of the Rio Grande. At one time the Bolivians had placed great hopes in Puerto Suarez as an outlet for the rich agricultural region of Santa Cruz. Today Puerto Suarez is dead and no vessel now calls there. As the Bolivian Minister at Buenos Aires said in his letter of June 12, 1933, to the Argentine Ministry of Foreign Affairs: "Owing to the absence of ports on the River Paraguay and of roads along which vehicles can travel, imports to Santa Cruz have, for many years, had to pass through Yacuiba, the point where the Argentine railway line Embarcación-Yacuiba (south of the Upper Pilcomayo) reaches the frontier. It was only for one or two years, when Puerto Suarez was declared a free port, that any considerable volume of imports was sent by this route, during the dry season. Puerto Suarez is now no longer a free port, and imports have prac-

[16] Julian Duguid, *Green Hell*, London, 1931.

tically stopped, being confined to the requirements of the small groups settled in the immediate vicinity."[17]

A port created on one of the "lagoons" situated further to the north which, like that of Caceres, is connected with the River Paraguay, has suffered the same fate as Puerto Suarez. Dr. Cornelio Rios stated in 1925 that the best position for a port was on the Gaiba Lagoon, because the hinterland consisted of elevated and fertile land. In 1900 Puerto Quijarro had been founded there, and, according to the report made in 1901 by Captain H. Bolland, the results of the explorations which he had undertaken for the Bolivian Government on the upper course of the Paraguay and in the Gaiba Lagoon were entirely satisfactory, for the Upper Paraguay was undoubtedly navigable as far as the Gaiba Lagoon, the channel at all times of the year having a depth of not less than six feet.[18] A syndicate known as the Bolivian Oil and Land Syndicate, founded in London in 1902, obtained from the Bolivian Government concessions which were transferred in 1926 to Bolivian Concessions Limited. These concessions, which covered about thirty million acres, gave the holders the right to prospect for oil and minerals and to construct a port at Gaiba and a railway connecting this port with Santo Corazón, with the possibility of extending it to Santa Cruz. In 1931, the company went into liquidation.[19]

In general all available information goes to show that, whereas the undertakings along the river south of Bahia Negra in the Paraguayan zone of occupation have made progress, the position is entirely different in the Bolivian zone of the north. The reason given by the Bolivians for this state of affairs is that they do not possess any outlet on the River Paraguay further south.

Chapter IX

THE CHACO DISPUTE

In the first half of the nineteenth century there was no dispute between Bolivia and Paraguay concerning the Chaco. During the long dictatorship of Francia, her first President, from 1811, when Spanish rule came to an end, down to 1840, Paraguay existed in a state of complete isolation and deliberately held aloof from the outside world. After Francia's death, the Congress, assembled at Asunción, approved in 1842 the Act of Independence of the Republic. The communication of this act to foreign countries marks the recognition of the independence of Paraguay, who concluded with the Argentine in 1852 a Frontier and Navigation Treaty, Article 4 of which specifies that the "River Paraguay shall belong from bank to bank in full

[17] Argentine Neutrality in the Conflict between Bolivia and Paraguay, publication of the Argentine Ministry of Foreign Affairs, 1933.

[18] Dr. Cornelio Rios: *Bolivia en el primer Centenario de su independencia*, Buenos Aires, 1925.

[19] Oil and Petroleum Year-book, 1928 and 1931.

sovereignty to the Republic of Paraguay down to its confluence with the Paraná."

The Bolivian Chargé d'Affaires at Buenos Aires immediately lodged a protest against this text, without awaiting instructions from his Government. He noted "that in this general declaration no mention has been made of Bolivia's right, as a riparian State on the western bank, to the River Paraguay between parallels 20, 21 and 22". He therefore protested, on behalf of the Bolivian Government, against the provision in so far as it might tend to prejudice the absolute rights of the Bolivian nation in respect of the waters of the River Paraguay.[20]

In the following year, Bolivia, by a decree which became law in 1855, declared the waters of all navigable rivers flowing through her territory into the Amazon and the Paraguay to be open to the trade and merchant shipping of the whole world. Furthermore, Fort Magariños, on the Pilcomayo, Bahia Negra and Fuerte Borbón, on the western bank of the Paraguay, were declared to be free ports in Bolivian territory open to the trade and shipping of all merchant vessels irrespective of the flag they flew, their origin or their tonnage. Relying on Bolivia's undoubted right to navigate these rivers down to the Atlantic, the Bolivian Government invited all nations to make use of them and promised: (1) to grant in Bolivian territory from one to twelve square leagues of land to any individuals or companies who succeeded in reaching from the Atlantic any of the localities designated as ports, and who created agricultural and industrial establishments there; (2) to grant a bonus of 10,000 pesos to the first steamer which, coming up the River Plate, reached any one of the points mentioned.[21]

When this decree was published, Bolivia was not actually in occupation on the Paraguay either of Fuerte Borbon—now known as Olimpo—which the Paraguayans had continued to hold after the termination of Spanish rule, or of Bahia Negra to the south of the territory of which Oliden had taken possession in 1836 in the name of the Bolivian Government, and where he had remained for eight years. (In point of fact, the Bolivian Suárez Arana undertaking was only installed on the Bahia Negra in 1885.)

Magariños, on the Pilcomayo, was so named in memory of the explorer whom the Bolivian Government sent out in 1843 to survey the course of that river as far as Asunción, and who, on an expedition which did not achieve its purpose, founded a port on its banks.

While Bolivia was thus staking her claims, the Paraguayans, under the dictatorship of Carlos Antonio Lopez, founded a few settlements in that part of the Chaco which faced Asunción. The most important of these was *Villa Occidental*, founded in 1855, under the auspices of the Paraguayan Government, by French colonists. When these colonists left, the Paraguayans occupied "Nueva Burdeos," which became Villa Occidental.

[20] Miguel Mercado Moreira: *El Chaco Boreal*. La Paz, 1929, page 82.

[21] *Ibid.*, page 75.

THE FIRST NEGOTIATIONS BETWEEN BOLIVIA AND PARAGUAY WITH A VIEW TO SETTLING THE DISPUTE

After the war which Paraguay waged from 1865 to 1870 against the Triple Alliance (Argentine, Brazil and Uruguay), and which came to an end when she had lost practically the whole of her male population, she concluded in 1876 a Boundary Treaty with the Argentine whereby she finally recognized that the Chaco territory up to the main channel of the Pilcomayo (*i.e.*, the central Chaco to the south of that river) belonged to the Argentine. The territory lying between the main arm of the Pilcomayo and Bahia Negra was deemed to be divided into two parts: one situated between Bahia Negra and the Rio Verde, and the other situated between the Rio Verde and the main arm of the Pilcomayo, Villa Occidental being included in the latter. While the Argentine Government finally renounced all its claims to or rights over the first portion, the question of the ownership of or right over the second portion was submitted to the President of the United States of America for arbitration.

From the outset of Paraguay's conflict with her neighbors, Bolivia remained on her guard to ensure that the arrangements reached for the settlement of the conflict should not adversely affect what she believed to be her own titles to the Chaco. She still possesses documents—which need not be enumerated here—proving, as she believes, that her rights were not affected either by the Boundary Treaty of 1876 or by the arbitral award of President Hayes who, two years later, allotted to Paraguay the territory between the Rio Verde and the main arm of the Pilcomayo, including Villa Occidental (which out of gratitude to the arbitrator is now called Villa Hayes).

The first negotiations between Bolivia and Paraguay to determine their common frontier were, on the proposal of Bolivia, begun less than a year after President Hayes had given his award.

The Bolivian representative, Quijarro, arrived at Asunción in September 1879. Three weeks later, he signed with the Paraguayan Chancellor Decoud the first agreement for the settlement of the dispute. Before the beginning of the present century, two other agreements were drawn up. As it was impossible to secure the necessary ratifications, none of these agreements came into force.

These attempts to reach a settlement by compromise—each new attempt, it will be noted, is more advantageous to Paraguay than its predecessor—were subsequently regarded as dark pages in the national history of both countries. The negotiators were accused on both sides of having consented to a compromise which sacrificed indisputable titles. The real explanation of this attitude was that public opinion in both countries was becoming increasingly interested in the Chaco question; that ever wider research by historians and jurists brought to light documents from archives and furnished legal arguments which convinced both nations that they possessed rights

that were being disregarded by the other party, and that increased efforts were being made by both countries to establish themselves in the Chaco.

Thus, particularly from the beginning of the present century, the position grew more and more dangerous and became a cause of anxiety to the neighboring countries.

The three treaties are summarized in the following table:

Decoud-Quijarro Treaty (*1879*)	*Aceval-Tamayo Treaty* (*1887*)	*Benites-Ichaso Treaty* (*1894*)
Paraguay renounces, in favor of Bolivia, all rights to the territory lying between Bahia Negra (south of the 20th parallel) and the parallel which, starting from the mouth of the Rio Apa (south of the 22nd parallel) extends to the Pilcomayo. Bolivia recognizes that the southern portion down to the main arm of the Pilcomayo belongs to Paraguay.	The territory to the west of the River Paraguay is divided into three sections: (1) The part between the main arm of the Pilcomayo and a parallel starting from a point on the bank of the River Paraguay opposite the middle of the mouth of the Rio Apa, and extending to the intersection of this parallel with Paris meridian 63°, which forms the western boundary of this section. (2) The part between the above-mentioned parallel and the parallel which runs one league to the north of Fuerte Olimpo, as far as the above-mentioned meridian 63°, which forms the western boundary of this section. (3) The part between the parallel running one league to the north of Fuerte Olimpo and Bahia Negra. The first section is recognized as belonging to Paraguay, and the third to Bolivia. The question of the ownership or rights over the second section is to be submitted for final decision to an arbitrator (the King of the Belgians).	Bolivia and Paraguay agree to fix their frontiers definitively in the territory situated between the right bank of the River Paraguay and the left bank of the main arm of the Pilcomayo, by a straight line starting three leagues to the north of Fuerte Olimpo on the right bank of the River Paraguay and crossing the Chaco until it meets the main arm of the Pilcomayo where the river crosses Greenwich meridian 61° 28′.

PINILLA-SOLER PROTOCOL (1907), THE LAST ACT CONTAINING THE TERMS OF A SETTLEMENT BY COMPROMISE AND THE FIRST ACT FOR THE SETTLEMENT OF THE QUESTION OF THE "STATUS QUO"

The two parties having accepted the mediation of the Argentine Republic, their representatives, Dr. Pinilla (Bolivia) and Dr. Soler (Paraguay), signed

a new agreement at Buenos Aires on January 12, 1907. This act aimed at settling two questions: the "question of the frontiers between the two countries" and also "that of the *status quo* of their possessions" in the Chaco. The pushing forward of these possessions, and in particular of the Bolivian and Paraguayan "posts," which were drawing nearer and nearer to each other, appeared even then to constitute a danger to peace between the two countries—a danger which subsequent events have proved to be only too real.

The provisions for the settlement of the frontier question included an agreement to accept the arbitration of the President of the Argentine Republic in respect of the "zone between parallel 20° 30′ and the line claimed on the north by Paraguay; within the territory between Greenwich meridians 61° 30′ and 62°." Whereas the three previous treaties only required parliamentary ratification to bring them into force, it was stipulated that the agreement of 1907 must first be ratified, within a period of four months, by the two Ministries of Foreign Affairs and that then the "Arrangement for Limited Arbitration" should be signed by the two plenipotentiaries named (Dr. Cano and Dr. Dominguez). If either Ministry of Foreign Affairs failed to produce the above-mentioned ratification, the plenipotentiaries were to negotiate an agreement defining the zone which was to be the subject of an arbitral decision, the *status quo* referred to in Article 7 being meanwhile continued.

Article 7 specified that, pending the conclusion of the agreement, the contracting parties undertook "hereby to refrain from making any change or from pushing forward existing possessions." Under no circumstances was the *status quo* to be terminated sooner than twelve months from the date laid down in Article 3 (the article which stipulated ratification by the two Ministries within four months). The *status quo* was to be loyally observed under the guarantee of the Argentine Government.

The Pinilla-Soler Agreement was ratified by the two Governments. But almost as soon as the plenipotentiaries Cano and Dominguez began to negotiate, it was seen that they would never succeed in reaching agreement and in signing the "Arrangement for Limited Arbitration." The death of the Bolivian plenipotentiary in November 1907, followed in 1909 by the Argentine President's renunciation of his arbitral powers owing to the serious incidents which had occurred at La Paz when the award he had given in the Bolivo-Peruvian frontier dispute was announced, postponed indefinitively any prospect of arbitral settlement.

The provisions regarding the observance of the *status quo*, instead of bringing about improved relations as was intended, gave rise to a long quarrel which has continued to this day. One of Paraguay's main complaints is that Bolivia has not observed the *status quo* of 1907, the lines of that *status quo* coinciding—so Paraguay says—with those specified in the Pinilla-Soler Protocol for the limitation of the zone to be submitted to arbitration.

AYALA-MUJIA PROTOCOL (1913): FIRST ACT CONTAINING A SIMPLE UNDERTAKING FOR SETTLEMENT BY ARBITRATION AND MAINTAINING THE "STATUS QUO" OF 1907

In 1913, Dr. Eusebio Ayala, Paraguayan Minister for Foreign Affairs, now President of the Republic, and the Bolivian Minister, Dr. Ricardo Mujia, signed a new agreement at Asunción. The history of the negotiation of this agreement and its actual terms demonstrate the growing difficulties in the way of an understanding between the parties.

This agreement *ad referendum*, which was to be approved by the two Governments within four months, contained a simple undertaking to negotiate a final boundary treaty within two years from the date on which the agreement was approved. The first point to be examined was the possibility of a treaty by direct settlement, due regard being had to the commercial interests of the two countries. If unable to reach agreement by this method, the parties were to submit their boundary dispute to legal arbitration.

The next stipulation, which refers to the *status quo*, is regarded by Paraguay as confirming, and even as defining with greater clearness, the 1907 undertaking, which, so she contends, Bolivia has violated. It reads as follows:

> Pending the conclusion of the direct agreement or the announcing of the arbitral award, the *status quo* stipulated in the Agreement of January 12, 1907, shall remain in force, the two parties declaring that they have not modified their respective positions since that date.

Stress is laid by Paraguay on the importance of the substitution of the word "positions" for the word "possessions," which appeared in the 1907 Agreement. "Positions," it is argued, is a military term, and in particular, according to Paraguay, the text quoted recognizes as illegal the construction of Bolivian posts east of the 62nd meridian, this being the western limit of the zone which, under the 1907 Protocol, was to be the subject of an arbitral decision.

Bolivia explains the substitution of the word "positions" for "possessions" as due purely to inadvertence. She has frequently protested against "the Paraguayan interpretation, which identifies the *status quo* line of the 1907 Protocol with the lines of the arbitration zone mentioned in this latter agreement, which was declared to have lapsed in 1913." Bolivia maintains "that, immediately after the Agreement of 1907, Paraguay began to construct railways, grant concessions with a lavish hand, and establish military posts outside the possessions which she was bound to respect in conformity with the *status quo*, and which have no connection with the arbitration lines mentioned in the agreement."[22]

[22] Circular letter from the Bolivian Ministry of Foreign Affairs of April 11, 1931, quoted by M. Enrique Finot: *Nuevos Aspectos de la cuestión del Chaco*, La Paz, N.D., page 392.

Article 5 of the Protocol of 1913 concerning the lapsing of the Agreement of 1907 reads: "In virtue of the foregoing clauses, which modify the stipulations of the Agreement of January 12, 1907, the high contracting parties agree to declare the said agreement to have lapsed."

THE PROTOCOL OF 1913 EXTENDED ON SEVERAL OCCASIONS

The two-year period stipulated in the 1913 Protocol for the negotiation of a boundary treaty was found to be too short. Negotiations began at Asunción in March 1915 between Dr. Mujia and the Paraguayan plenipotentiary, Fulgencio R. Moreno. In July, the plenipotentiaries signed a new protocol, extending that of 1913 until July 28, 1916, "the negotiators to conclude their work before this date by agreeing either upon a direct settlement or upon an arbitration treaty."

Negotiations were continued on the basis of this protocol and, after an exchange of memoranda, Dr. Mujia handed Dr. Moreno in November 1915 a voluminous historical and legal work, consisting of three volumes of exposition, five volumes of appendices, and various maps.[23]

This was the definite beginning of the controversy concerning legal titles, the scope of the rule of the *uti possidetis* of 1810 in American law,[24] the interpretation of the acts of the Spanish Crown before that date, the narrations of the expeditions of the conquistadors, the evidence of explorers and that furnished by geographical maps. The dispute has never ceased since then. It has only become more and more bitter, because it has been accompanied by controversies, magnified by the press, over inaccurate or truncated quotations, tendentious interpretations and alleged deliberate "lies." This battle of historians and jurists, convinced of the justice of their own cause and of the adversary's bad faith, has helped to create the noxious atmosphere surrounding the dispute. In this atmosphere any compromise has become more and more difficult. Those who have suggested a compromise have been regarded as traitors to their country, and since arbiters, being but men and therefore fallible, may fail to recognize an incontrovertible right or may be inclined to pronounce a judgment of Solomon, arbitration itself has come to be regarded as a danger against which precautions must be taken by refusing to accept an arbitration agreement unless it affords a good prospect of prejudging the award.

To reply to Dr. Mujia at sufficient length Dr. Moreno needed time,[25] and the period for concluding the negotiations was extended by a new protocol (1916), and then by two instruments signed by the two negotiators in 1917 and 1918. The final outcome was neither a direct arrangement nor arbitration, as had been provided for in the event of a direct arrangement being

[23] Ricardo Mujia. *Bolivia-Paraguay.* State Publications Office, La Paz, 1914.

[24] In her dispute with Paraguay, Bolivia has relied upon the principle of the *uti possidetis juris* of 1810, whereby the boundaries of the Spanish-American Republics are the boundaries corresponding to the former colonial demarcations from which they took their configuration, subject to the modifications made in some of these demarcations by the War of Independence. In Paraguay it is pointed out that, in her dispute with Peru, Bolivia upheld an entirely different principle—that of the *uti possidetis de facto.*

[25] Dr. Moreno's reply is contained in the publication by the Paraguayan Ministry of Foreign Affairs, *Cuestion de Límites con Bolivia, Negociaciones Diplomáticas (1915–1917)*, Asunción, 1917.

found impracticable. The undertaking as to the *status quo*, however, subsisted, and likewise the controversy concerning the observance of that undertaking.

BEGINNING OF SERIOUS MILITARY INCIDENTS IN THE CHACO (1927)

The first of the manifold serious incidents due to the pushing forward of the military positions in the Chaco took place in February-March 1927.

On February 26 a Paraguayan patrol was captured at the Bolivian fort, "Sorpresa." On the 27th, the Bolivian Chargé d'Affaires at Asunción protested against the violation of his country's territorial sovereignty. The patrol-leader, Lieut. Rojas Silva, was killed later when attempting, according to the Bolivian note of March 17, to escape, after wounding the sentry on guard over him.

This incident helped to raise the question of the *status quo* in an acute form. Paraguay stated that she would exact punishment if the patrol had exceeded its orders and crossed into the *status quo* zone of the 1907 Agreement west of the Greenwich meridian 61° 30', but that if the patrol had been encountered east of the said meridian, it was "in territory unquestionably under Paraguayan jurisdiction" and the Bolivian army had violated Paraguay's territorial sovereignty.

PROTOCOL OF APRIL 22, 1927, AND THE NEGOTIATIONS AT BUENOS AIRES

In the course of the month following the death of Lieut. Rojas Silva, M. Diaz Leon, the representative of Paraguay, and M. Alberto Gutierrez, the Bolivian Minister for Foreign Affairs, signed a protocol at Buenos Aires by which both countries reiterated their acceptance of the good offices of the Argentine Government with a view to bringing about the cordial resumption of negotiations for the settlement of the boundary dispute.

When the two Governments had approved this protocol, their plenipotentiaries were to meet at Buenos Aires and decide upon the subjects to be considered in the course of their deliberations. The arguments or proposals to be put forward for determining the frontier line might include relevant legal documents or precedents, and also suggestions for a compromise solution or territorial compensation. It was further provided that if the plenipotentiaries failed to reach agreement on the final tracing of the frontier, they were to draw up a statement explaining the causes of their disagreement and specify the exact area which was to form the subject of an award by an arbitral tribunal, which they were jointly to designate.

Paraguay subsequently informed Bolivia of her view that the protocol should in no way affect the previous agreements and that it was on that condition that she was prepared to ratify it. Bolivia concurred, and this enabled Paraguay to ask the Conference of Buenos Aires to begin by examining the question of the *status quo* in force, to ascertain whether any advances or changes had been carried out by the parties, and, if so, to indicate the means of rectifying the situation.

The Conferences of Buenos Aires, which were opened in September 1927, adjourned from the end of December to March 15 of the following year and actually resumed in May of that year, only to be again adjourned on July 12, demonstrated, as the act of adjournment recognized, that the plenipotentiaries were unable 'to reach agreement on the questions considered at the conference."

In Bolivia, Paraguay is accused of having caused the failure of the Buenos Aires Conferences by insisting on priority being given to the question of the *status quo*, just as later, when hostilities were already in progress, she was to insist on priority being given to the question of their cessation, the settlement of the substantive question being in both instances relegated to the Greek calends. In Paraguay, Bolivia is held to have brought about the failure of the Buenos-Aires negotiations by insisting, as she continued to do in the later stages of the dispute, on priority being given to the arbitral settlement and by proposing that such settlement be based upon principles which were unacceptable.

On the Bolivian side it is recalled that, on December 13, 1927, the Argentine Government, in its desire to find a way out of the deadlock prevailing after two months of discussion devoted in the main to the question of the priority of the *status quo*, made the following suggestion:

> (1) That Paraguay should consent to immediate arbitration on the substantive question;
> (2) That Bolivia and Paraguay should demilitarize all their posts or withdraw those that faced each other fifty kilometres to the rear, these measures to be applied under the supervision of a military commission from a third State;
> (3) That it should be laid down that any advance carried out by either country had created a *de facto* situation which, however, did not invest it with any legal right and which could not be relied upon before the arbitral tribunal in support of its claims.

In Bolivian quarters it is maintained that the foregoing suggestion was necessitated by the distaste which Paraguay had shown for arbitration on the substantive question, but that, although the suggestion was in principle accepted as a way out of the deadlock, "behind each new suggestion or formula it was always possible to detect the underlying idea of the Paraguayan plan for the withdrawal or abandonment of the posts."[26]

In Paraguay it is the Bolivian Government which is held responsible for the failure of the conference, because that Government rejected Paraguay's proposal for arbitration on the question of the *status quo*, and, as a condition for arbitration on the substantive question, insisted upon proposals which Paraguay was unable to accept; at the same time, Paraguay was putting forward proposals which appeared inadmissible to Bolivia.

[26] Statement by the Bolivian delegate, M. Sanchez Bustamante, at the meeting of the conference held on June 18, 1928.

THE INCIDENTS OF DECEMBER 1928 IN THE CHACO

The profound disagreement recorded in the act of adjournment of the Conferences of Buenos Aires—for agreement appeared to be impossible either on the settlement of the substantive question or on the establishment of a *modus vivendi*—was to be still further accentuated when, in December 1928, serious incidents occurred at Vanguardia and in the Boquerón sector between Bolivian and Paraguayan military forces; as a result of these incidents the matter was taken up by the Council of the League of Nations, which was then in session at Lugano, and by the International Conference of American States on Conciliation and Arbitration, sitting at Washington.

SETTLEMENT OF THE INCIDENTS OF DECEMBER 1928. POSTPONEMENT OF A SETTLEMENT OF THE SUBSTANTIVE QUESTION

The Commission appointed by the International Conference of American States, on which were represented (in addition to the two parties) the United States of America, Colombia, Cuba, Mexico and Uruguay, was able, in September 1929, to settle the question of the incidents of December 1928 by conciliation, thus rendering unnecessary the report on the results of its enquiry which the Commission was to present only in the event of conciliation failing. The resolution of the Commission re-established the *status quo ante* as at December 5, 1928, by the handing over of Fortin Vanguardia to Bolivia and the abandonment by the Bolivian troops of Fortin Boquerón.

The resolution further stated in its preamble—a point to which Bolivia has not failed to draw attention on frequent occasions—that "the historical account of the facts reveals that the incident at Vanguardia preceded the events which took place in the Boquerón sector" and "the employment of coercive measures on the part of Paraguay in the Vanguardia incident caused the reaction of Bolivia."

The neutral members of the Commission, "in order to prevent new conflicts and establish conciliation on firm and permanent bases," further thought it "indispensable to procure a settlement of the fundamental question." The two parties having agreed to the neutral Commissioners submitting a scheme of settlement for their consideration, the latter studied the various aspects of the problem, with the unofficial help of experts, geographers, economists, etc. They then sounded the Bolivian and Paraguayan delegations with a view to ascertaining their respective aspirations and suggesting to them a scheme for a direct settlement. The two Governments concerned declined to consider such a scheme, and the neutral Commissioners prepared a proposal for arbitral settlement in the form of a draft convention, which was transmitted to the two delegations on August 31, 1929.

Both delegations agreed in principle to the idea of arbitral settlement, but did not accept the draft convention. The efforts of the neutral Commissioners came to an end when the Bolivian delegation informed them that its full powers had expired, and that it could not in consequence communicate with

the Bolivian Government. At the same time, the neutral Commissioners, before separating recommended their respective Governments to offer their good offices to the parties should the occasion arise when they could be of use.[27]

PREPARATION OF NEGOTIATIONS FOR A PACT OF NON-AGGRESSION

The settlement of the incidents of December 1928 made possible the resumption of diplomatic relations between the two countries on May 1, 1930.

After the assumption of power by President Salamanca, the Bolivian Foreign Office sent a circular on April 11, 1931, to its legations in foreign countries, stating, amongst other things, that Bolivia and Paraguay would do well to prepare "a preliminary plan with a view to making, before anything else, a supreme effort at direct understanding and arbitration, and in the meanwhile ensuring the observance of an attitude of non-aggression, increasing harmony and security for judicial solutions."

Nine days later, the Government of Paraguay approached the Governments of the United States of America, Colombia, Cuba, Mexico and Uruguay, represented on the Conciliation Commission of 1929. It recalled the fact that these Governments had offered their good offices for the conduct of negotiations with a view to finding means of settling the frontier dispute with Bolivia, and confirmed its acceptance, on behalf of Paraguay, of these good offices. It added that, since a constitutional Government had taken the place of a *de facto* Government in Bolivia, the moment had arrived to ascertain whether the latter was or was not disposed to accept the good offices of the neutrals.

At the end of June, Bolivia again broke off diplomatic relations with Paraguay, having taken offence at statements made by the Paraguayan Chargé d'Affaires at Washington.

To the new offer of good offices made by the five neutral Governments, the Bolivian Government replied on July 24 that it was disposed to proceed immediately with the study, not of a settlement of the substantive question, but of "a pact of non-aggression in the Chaco, ensuring international peace and tranquillity, with a view to entering into negotiations—thanks to a regime conducive to peaceful settlement—having as their object an equitable and final settlement of the territorial dispute."

On August 21, the Paraguayan Government declared its readiness to consider a pact of non-aggression, and appointed its plenipotentiaries on October 7.

CONFERENCES HELD AT WASHINGTON WITH A VIEW TO THE CONCLUSION OF A PACT OF NON-AGGRESSION

Negotiations began on November 11, 1931, in Washington. In the previous month, Bolivia had reported two Paraguayan attacks on the post of

[27] The work of the Commission of Inquiry and Conciliation is to be found in an important document published in English and Spanish, in which the League of Nations Commission has found documentary material of the utmost value—namely, the Proceedings of the Commission of Inquiry and Conciliation, Bolivia and Paraguay, Washington, 1929.

Agua Rica, and it had been thought that the conference would not be able to take place.

From the outset of the conference, deep-seated divergences were apparent in the view of the Bolivian and Paraguayan delegations as to what the pact of non-aggression should be. In the eyes of Bolivia, its primary purpose should be to prohibit attack or invasion of the positions at present held in the Chaco. In the eyes of Paraguay, its purpose should be to stipulate for the abandonment by Bolivia of all the positions held by her in the zone adjudicated by President Hayes' arbitral award to Paraguay, together with a return to the *status quo* for which the Agreement of 1907 provided. Bolivia, at the conferences held in Buenos Aires, had already contested, not merely the interpretation given by Paraguay to the agreement, but the validity of the agreement itself.

Bolivia wished the treaty to be for a brief period only (one year), for the reason that, "by putting a truce to the grave apprehensions of the two countries, it would prepare the way for a future settlement of the old controversy." In Paraguay's view, what was required was the establishment of "a *modus vivendi* based, not on the position of fact, but on the rights of the parties, to last as long as the controversy on the substantial question should continue."

Bolivia accused Paraguay of endeavoring, by the submission of proposals of this kind in connection with the study of a simple agreement of non-aggression, not merely to raise the question of the conflict itself in its fundamental aspects, but also to settle the conflict in its own interest. "Paraguay," said Bolivia, "has put forward her proposals with the secret design of bringing about the failure of the negotiations."

Paraguay, for her part, stated that she was unable to conceive of a pact of non-aggression based on a situation tantamount to permanent aggression, to which it was essential at the outset to put a stop. "Such a pact would only serve to consolidate with the lapse of time improper occupations, by rendering a solution of the substantive question more difficult as the result of the creation of interests of all kinds."

In order to find an issue out of the deadlock to which the conversations begun in November 1931 were tending, as previous conversations had done, the President of the Conference, Mr. White, handed to the two delegations the draft of a pact of non-aggression; but the news from the Chaco again compromised the success of the negotiations, this time definitively.

Beginning of the Present Hostilities (June 1932)

It was at this juncture that incidents occurred in the Chaco which, though not in themselves so serious as those of December 1928, were nevertheless followed—in default of a settlement—by more serious developments leading up to the hostilities which are still proceeding.

On July 6, the Paraguayan Minister for Foreign Affairs notified the lega-

tions of the countries represented on the Commission of Neutrals that, on the morning of June 15, Bolivian forces had taken by surprise the post of Carlos Antonio Lopez (formerly Pitiantuta). The Paraguayan Government, on being informed by Colonel Estigarribia, commanding the First Division, sent a commission to the spot, which confirmed the facts. Accordingly, the Paraguayan Government withdrew its delegates from the Conference in Washington.

At the request of the neutrals, the Paraguayan Government furnished the following additional particulars on July 15. The Carlos Antonio Lopez post, situated approximately in longitude 60° 20′, to the north of the parallel passing through Fuerte Olimpo and the bank of the Pitiantuta Lagoon, was held by five soldiers and a corporal. During the attack, the corporal and one soldier disappeared, while the others made their way through the bush and arrived three days later at the quarters of the Coronel Toledo regiment, some 150 kilometres away. The Divisional Commander, Lt.-Col. Estigarribia, sent a patrol to the spot, and in a reconnaissance on June 29, in the course of which two men were killed, the patrol ascertained that the post was held by some 200 Bolivians.

According to the version supplied by Bolivia to the neutrals, a Bolivian detachment occupied the west bank of the Chuquisaca Lagoon, in the centre of the Chaco, on June 15. It found only two empty huts. On the 29th, the Bolivian detachment was attacked by fifty Paraguayans, losing one officer and three men in the engagement.

The two Governments did not immediately report these initial incidents to the Council of the League. The Council was merely informed by the Bolivian representative of the subsequent attack on July 15, in which, according to the Bolivian version, the Bolivian detachment on the Chuquisaca Lagoon was again attacked, this time by 500 Paraguayans "with a fair amount of artillery in support." The Bolivian detachment retired with some loss.

This engagement of July 15 is described by the Paraguayans as the recapture of the Carlos Antonio Lopez post.

On July 20, at the instance of the neutrals, the Paraguayan Government telegraphed to its delegates to return to Washington. Four days later Bolivia finally withdrew from the conference, after protesting against the Paraguayan attack of the 15th.

In the course of the following months, during which further serious incidents occurred in the Chaco, the neutrals made various proposals to the two parties, which were not accepted.

SUPPORT GIVEN TO THE WASHINGTON COMMISSION OF NEUTRALS BY THE COUNCIL AND AMERICAN STATES

In a letter addressed to the Secretary-General on July 29, and subsequently communicated to the delegates of Bolivia and Paraguay, M. Matos (Guatemala), the President of the Council, requested the two Governments

to lend all possible assistance to the other American Republics, which were endeavoring to restore a peaceful atmosphere in the spirit of the Covenant of the League.

On August 1, the President of the Council sent a telegram to Asunción and La Paz recalling that, on the occasion of the incidents of December 1928, the Council had obtained from the two Governments a solemn promise to have recourse to a procedure of pacific settlement in conformity with the Covenant and to take urgent measures to prevent fresh incidents liable to compromise the success of any pacific procedure. The President of the Council addressed an urgent appeal to the two Governments to lend themselves to the moderating action of friendly nations and to seek a settlement of their dispute without departing from peaceful methods.

On August 3, the representatives of the nineteen American Republics met in Washington and addressed to the Governments of Bolivia and Paraguay the following message:

> Respect for law is a tradition among the American nations, who are opposed to force and renounce it both for the solution of their controversies and as an instrument of national policy in their reciprocal relations. They have long been the proponents of the doctrine that the arrangement of disputes and conflicts of whatever nature or origin that may arise between them can only be sought by peaceful means.
>
> The history of the American nations shows that all their boundary and territorial controversies have been arranged by such means. Therefore, the nations of America declare that the Chaco dispute is susceptible of a peaceful solution, and they earnestly request Bolivia and Paraguay to submit immediately the solution of this controversy to an arrangement by arbitration or by such other peaceful means as may be acceptable to them.
>
> As regards responsibilities which may arise from the various encounters which have occurred from June 15 to date, they consider that the countries in conflict should present to the Neutral Commission all the documentation which they may consider pertinent and which will be examined by it. They do not doubt that the country which this investigation shows to be the aggressor will desire to give satisfaction to the one attacked, thus eliminating all misunderstanding between them.
>
> They furthermore invite the Governments of Bolivia and Paraguay to make a solemn declaration to the effect that they will stop the movement of troops in the disputed territory, which should clean up the atmosphere and make easy the road to the solution of good understanding, which America hopes for in the name of the permanent interests of all the countries in this hemisphere.
>
> The American nations further declare that they will not recognize any territorial arrangement of this controversy which has not been obtained by peaceful means nor the validity of the territorial acquisitions which may be obtained through occupation or conquest by force of arms.

On August 6, the four neighboring States (the Argentine Republic, Brazil, Chile and Peru) signed an agreement at Buenos Aires, in which, without expressing any opinion as to the origin of the conflict or the responsibility for the incidents by which it had been marked, they invited Bolivia and Paraguay to make a supreme effort at reconciliation by abandoning their warlike attitude, putting a stop to mobilization in all its forms and preventing the outbreak of war. The four Governments jointly offered their good offices to both nations and stated their willingness to receive and take appropriate ac-

tion on any suggestions or proposals which the parties might wish to put forward for an amicable arrangement, in accordance with the declaration signed on August 3 by nineteen American countries and in consultation with the Commission of Neutrals. The four signatory Powers also undertook to continue their joint action and to offer their support and coöperation to the Commission of Neutrals sitting in Washington, with a view to using their influence as neighboring countries to prevent war between the Republics of Bolivia and Paraguay.

On September 10, the President of the Council, in view of press reports to the effect that the situation was being further aggravated, asked the Secretary-General to forward a new appeal to the Governments of the two countries. Referring to their declarations that they intended to seek a pacific settlement of their dispute and to the efforts being made in America to arrive at a peaceful solution, he expressed the hope that the two Governments would shortly communicate, for the information of his colleagues on the Council and the members of the League, the measures which they intended to take to put an end to a situation which was dangerous to peace.

On September 12, the Government of Paraguay replied to this appeal and stated that Paraguay had refrained from resorting to the League owing to the fact that the Commission of Neutrals was continuing its mediation. It had accepted all the procedures proposed to avoid armed conflict, as well as arbitration or the jurisdiction of the Hague Court for a settlement of the dispute. It had just informed the neutrals of its readiness to accept a suspension of hostilities.

On September 13, the Bolivian Minister for Foreign Affairs stated that his Government had reiterated its acceptance of the truce proposed by the neutrals in order to seek fundamental solutions. He declared that Bolivia was standing on the defensive and that the cessation of hostilities did not lie in her hands.

When the Council met on September 23, it declared its readiness to assist the efforts of the American Republics to bring about a peaceful settlement, and decided to appoint a committee of three members (Irish Free State, Spain, Guatemala) to follow developments.

END OF THE NEGOTIATIONS AT WASHINGTON

In spite of the support which it thus received, the efforts of the Commission of Neutrals failed. Following the specific proposal for the cessation of hostilities and the settlement of the dispute which this Commission made to the parties on December 15, the Government of Paraguay withdrew its delegation and thus put an end to the Washington negotiations.

On December 31, the Commission of Neutrals informed the Council that it had asked the four countries adjacent to Bolivia and Paraguay what steps they would be prepared to take in order to prevent further bloodshed. The Commission of Neutrals was convinced that, by concerted efforts, the nations of America could safeguard peace in that hemisphere, and it therefore re-

quested the active coöperation of the four countries nearest the scene of hostilities.

THE COMMITTEE OF THE COUNCIL CONSIDERS THE QUESTION OF SENDING OUT A COMMISSION. THE PROPOSAL IS ADJOURNED

After the breakdown of the negotiations at Washington, the committee of three members appointed to follow the question considered whether it should ask the Council to send out a commission to the scene of the conflict. On being consulted on this point, however, the representatives of Bolivia and Paraguay pointed out that a new concerted effort was being made by the neighboring countries, more especially the Argentine and Chile, in coöperation with the Commission of Neutrals at Washington. While thus approving in principle the suggestion made by the Committee of the Council, the two Governments agreed that its application should be postponed.

THE QUESTION OF THE SUPPLY OF ARMS AND WAR MATERIAL TO BOLIVIA AND PARAGUAY

The Council took note of this agreement between the parties and, pending the result of the fresh intervention of which it was informed, proceeded to consider a question to which its committee had called attention as far back as November 1932. Bolivia and Paraguay had each expressed the fear that the suspension of hostilities might enable the other to rearm. As, however, neither country produces arms and war material, any increase in their military strength depends on shipments from abroad.

On February 25, 1933, the Governments of the United Kingdom and France stated, in a memorandum, that hostilities between Bolivia and Paraguay continued and were even becoming more acute, that the Council had not been able to determine whether or in what measure the two States had complied with the obligations devolving upon them under the Covenant, but that, in spite of the difficulties of that situation, it was bound to take measures designed to safeguard effectively peace amongst nations. In that connection, the suggestions of the Committee of Three concerning arms and war material might be effective if all States joined in their application. The Governments of the United Kingdom and France were prepared, so far as they were concerned, to give effect to these suggestions and to consult the States not members of the League whose coöperation was essential in the matter. They proposed that the Council should study measures which, in application of Article 11 of the Covenant, might be suggested with a view to preventing the supply of arms and war material to Bolivia and Paraguay.

THE DISPUTE SUBMITTED TO THE COUNCIL UNDER ARTICLE 11 BY THE MEMBERS OF THE COMMITTEE OF THREE

As hostilities continued in the Chaco, the representatives of the Irish Free State, Spain and Guatemala, members of the Committee of Three, asked, on

March 6, that the question of the dispute between Bolivia and Paraguay, which the Council had so far considered in virtue of its powers under Article 4 of the Covenant should be placed on the Council's agenda under Article 11.

FAILURE OF THE EFFORTS BASED ON THE ACT OF MENDOZA

When the Council met on March 8, it had before it a summary of the confidential Act of Mendoza of February 2, which had been communicated to the parties on the 24th and forwarded on March 1 by the Bolivian Government with the following comment:

> On receiving these confidential proposals, we have given evidence of our intention to consider them in the best spirit, although they arrive on the eve of the declaration of war announced by Paraguay.

This last statement referred to the message which, on the very day of the signature of the Mendoza Agreements, the Paraguayan Executive had addressed to Congress, asking for authority to declare a state of war with Bolivia. That authority was granted on March 8.

Apart from the question of the supply of arms, which was discussed by its members, the Council considered that the first step it could take under Article 11 of the Covenant would be to obtain as quickly as possible all official information regarding what had happened concerning the Mendoza proposals.

Those proposals, the text of which had been drafted by the Argentine and Chilian Foreign Ministers, M. Saavedra Lamas and M. Cruchaga Tocornal, during their conversations on February 1 and 2, were designed to secure both a settlement of the substantive question by arbitration and the final cessation of hostilities.

With regard to the settlement of the substantive question, all matters arising in connection with the final settlement of the Chaco dispute were to be submitted to legal arbitration. In case of difficulty in determining the zone in dispute or submitting any particular point to arbitration, it would be suggested that the Permanent Court of International Justice be asked for an advisory opinion.

Further, the two parties would at once declare hostilities at an end, and would agree (1) to withdraw their troops—Bolivia to Ballivian and Robore, and Paraguay to the River Paraguay; (2) to reduce their armies to peace strength, and consequently to demobilize.

In addition, in the Final Act of Mendoza, the Argentine and Chilian Foreign Ministers agreed more particularly to recommend that, in the capital of one of the countries bordering upon the contending countries, an economic conference should be held which would consider, in respect of countries occupying a landlocked position or frontier regions in a similar situation:

> (1) The establishment of a transit trade system by land and water, to develop trade between the landlocked countries and the maritime countries;

(2) The study of possible agreements relating to rail or road communications for the different geographical areas of certain of those land-locked countries, or for frontier regions in a similar situation;

(3) The drafting of an agreement between the riparian States of certain international rivers for the purpose of improving their navigability.

The Act of Mendoza was communicated to the Brazilian and Peruvian Governments, and the four neighboring States agreed to deliver copies of it to the Bolivian and Paraguayan Governments on February 24.

On the 27th, the Paraguayan Government accepted the bases suggested in the Mendoza formula, but proposed certain amendments. In the arbitration formula, it wished to substitute for the words "zone in dispute" the words "specific subject of the dispute," observing that, from its point of view, there was no question of a "zone," but only of "boundaries," and that, consequently, any reference to a zone would be equivalent to prejudging the question. With regard to the withdrawal of the Bolivian troops, it raised no objection to their withdrawal in the north to Robore, but for its own safety it demanded that, in the west, they should evacuate Ballivian and withdraw to the edge of the Chaco—*i.e.*, to Villa Montes. As to the limitation of effectives, Paraguay asked that both countries should reduce them for five years to the minimum required to assure the internal security of each. She also desired an international enquiry to determine the aggressor and the responsibility.

Lastly, in some observations and suggestions appended to its reply, the Paraguayan Government remarked that, in its opinion, the clauses dealing with the cessation of hostilities and with security must be put into execution forthwith if the action was to be successful.

The Paraguayan Government pointed out that the arbitration procedure would naturally take time. It must be borne in mind that the arbitration agreement (constitution of the court, definition of the matter in dispute, procedure, and other details of the arbitration) would have to be embodied in a treaty subject to ratification by the legislature, at all events according to the Constitution of Paraguay. On the other hand, the cessation of hostilities and the system of security could be dealt with in an agreement and be put into effect by the Governments without the prior sanction of their Congresses.

On March 1, Bolivia announced her reply.

For the purposes of arbitration, all previous diplomatic projects and acts were to be considered non-existent; the question was to be settled by arbitration in accordance with the principles of the declaration of the American nations dated August 3, 1932, and the award was to apply the principle of the *uti possidetis juris* of 1810; the territory to be arbitrated upon was to be awarded to the country which had the better titles, all validity being denied to acts of force and occupation: it was to include the Hayes zone, and to be

bounded on the east by the River Paraguay, on the south by the Pilcomayo, on the north by latitude 21°, and on the west by longitude 59° 55′ west of Greenwich.

When an agreement had been reached on these points, consideration would be given to such cognate questions as the details of the armistice, the body to be entrusted with the arbitration, and the exchange of prisoners.

In order to assist the neighboring States in carrying out the mission they had undertaken, the Bolivian Government expressed in advance its views on these questions: as regards the cessation of hostilities, Bolivia reiterated her view that each party should maintain the positions it occupied at the time of the armistice; with regard to arbitration, Bolivia would propose that it be entrusted to the Presidents of the Supreme Courts of Justice of the American States.

The representatives of the neighboring countries and the United States appealed to the Paraguayan Government to withdraw its amendments in order to facilitate the acceptance of the Act of Mendoza. The Paraguayan Government withdrew its reservation concerning the retirement of the Bolivian troops as Ballivian. As to the other amendments, it would agree to their being considered at a later stage, when the arbitration agreement came to be negotiated.

Representations were then made to Bolivia to induce her to accept the Act of Mendoza. These requests failed, and the correspondence between the Bolivian and Argentine Governments in that connection was such that when, at the beginning of May, the Secretary-General of the League of Nations appealed to the Argentine and Chilian Governments and to the Washington Commission of Neutrals, on behalf of the Committee of the Council, to support the efforts that the latter intended to make, the Argentine Government replied that it would be pleased to coöperate to the utmost with the Council, once the Bolivian Government had given a satisfactory reply to its note of May 8.

FURTHER EFFORTS BY THE NEIGHBORING STATES

As has been mentioned in the introduction to the present report, the neighboring States subsequently made a further effort after the Council had decided, at the request of the two parties, to postpone the despatch of the Commission and to propose that the neighboring States should endeavor to suggest a formula such as would establish a just and lasting peace.

The unsuccessful efforts made by the neighboring States in August and September 1933 are described in the documents which M. de Mello Franco, Brazilian Minister for Foreign Affairs, who presided over the neighboring States, transmitted to the Council in their name, and which he was good enough to communicate personally to the members of the Commission on October 31.

The initial point for the Commission's work was the situation found to

exist by the neighboring States when they declined the Council's invitation. Hence, before we describe the Commission's activities, it will be desirable to recall with special care the main lines of the proposals made by the neighboring States and their reception by the parties.

On August 25, 1933, the neighboring States, after conferring together, proposed that the two parties should sign an instrument expressing their readiness to submit the whole question of the Chaco to legal arbitration. By the instrument establishing arbitration, the parties were to undertake to stop military operations as soon as they had signed the said instrument. They were to accept the moral guarantee offered by the neighboring States for the complete execution of the above-mentioned plan.

Following the signature of the proposed instrument, the two parties were to agree upon a South American capital as the seat of a conference to meet under the auspices of the A.B.C.P., in order to reach a final settlement of the questions that had led to the conflict.

On September 1, the Bolivian Government, in agreement with the parliamentary commissions, put a preliminary question, through its Minister at Rio de Janeiro, to the chairman of the representatives of the neighboring States as to the words "whole question of the Chaco." If the expression could bind the parties to submit indeterminate areas of their territory to arbitration or cause the disputed zone to be fixed by previous arbitration, this would be incompatible with the position maintained by Bolivia throughout the negotiations.

According to the telegram[28] sent to his Government by the Bolivian Minister at Rio de Janeiro on September 2, M. de Mello Franco informed the Bolivian Minister that he was bound to place the question asked by Bolivia before the A.B.C.P., but that if Bolivia adhered to her point of view the effort at mediation would fail, because Paraguay, as she had already stated, would never accept arbitration upon a specified zone. In view of this situation, M. de Mello Franco desired to transmit, together with Bolivia's question, a Brazilian suggestion which would make it possible to overcome the difficulty and to summon the conference immediately. He also desired that this suggestion should take into account the Bolivian point of view.

As the Brazilian Minister at La Paz had just informed him that the Bolivian Government would consent to the fixing of an extensive area within which the zone to be arbitrated upon would be determined and that it could agree to this area being the area proposed by the neutrals in 1932—*viz.*, that bounded by parallel 20°, by meridian 62°, and by the Rivers Paraguay and Pilcomayo—M. de Mello Franco made the following proposal: when transmitting the question put by Bolivia, he would suggest to the other representatives of the neighboring States that the area described above should be declared to be the disputed territory. The two belligerents would recognize

[28] *El mandato de la Liga de las Naciones al A.B.C.P.*, publication of the Ministry of Foreign Affairs, La Paz, 1933.

this area as being the disputed territory and would at the same time sign an armistice for thirty days, which would be renewable. Plenipotentiaries of the two parties would immediately meet in conference to determine the zone to be arbitrated upon within the said disputed territory. If within thirty days agreement had not been reached on this point, the A.B.C.P. would determine the zone in question, the armistice in that case being automatically renewed for a further thirty days.

On September 5, the Bolivian Government accepted the Brazilian suggestions, with the following modifications:

(1) The disputed territory to be the territory bounded by the parallel passing 25 kilometres south of Bahia Negra, by meridian 61°, and by the Rivers Paraguay and Pilcomayo;

(2) Within this territory the plenipotentiaries of the parties, meeting immediately at Rio de Janeiro under the auspices of the A.B.C.P., to fix within thirty days the territory to be arbitrated upon, at the same time laying down effective conditions for prompt arbitration and for the loyal execution of the award;

(3) If no agreement could be reached between the parties regarding the territory to be arbitrated upon within the aforesaid period, the disputed territory described above was to be submitted to legal arbitration, the conditions for ensuring such arbitration being agreed upon by the plenipotentiaries;

(4) When the agreements regarding the territory to be arbitrated upon and the terms of arbitration had been duly approved by the two Governments, hostilities were to be suspended, the two parties to remain in their positions until the arbitral award was pronounced;

(5) This procedure was not to preclude proposals for a settlement by compromise.

On September 7, M. de Mello Franco called together the representatives of the neighboring States, and subsequently despatched to the Brazilian Legation at Asunción a telegram announcing that he had put before them certain preliminary bases for the settlement of the Chaco question, in particular:

(1) That if the A.B.C.P. States accepted the invitation from the League Council, the belligerents should be convened to a peace conference at which the following plan would be discussed. The expression "the whole question of the Chaco" contained in the telegram sent to the belligerents on August 25 was to be taken to mean that the dispute related to a vast territory which might be regarded as representing the maximum specific subject of the dispute, and within which, by the methods suggested below, the territory to be submitted to arbitration would be fixed. The limits of the disputed territory might be the following: to the north, parallel 20°; to the south, the River Pilcomayo; to the east, the River Paraguay; and to the west, meridian 62°;

(2) That the plenipotentiaries of Bolivia and Paraguay, met in conference as proposed above, would fix, within these limits and within a period not exceeding thirty days, the territory to be submitted to arbitration;

(3) That if no agreement was reached between the parties within the

period fixed above, the territory in question was also to be determined by arbitration;

(4) That hostilities were to be suspended immediately upon the approval by the two Governments of an agreement which would precede and make possible the opening of the peace conference; by this agreement they would undertake to accept procedures of conciliation and arbitration, in accordance with the recent proposal of the Chilian Minister for Foreign Affairs, and to accede to the anti-war pact prepared by the Argentine Minister for Foreign Affairs. The parties were to remain in the positions occupied by them until the final arbitration agreement had been signed.

On September 8, the Paraguayan Government sent a reply, not to the Brazilian additional suggestion mentioned above, but to the original proposal made by the four Powers on August 25. It stated:

(1) That it intended to submit the questions connected with the Chaco dispute to legal arbitration and was prepared to sign an instrument declaring that such was its intention;

(2) That it was prepared to undertake in the same instrument to terminate, *ipso facto*, military operations;

(3) That it accepted the moral guarantee offered by the mediating States for carrying through the proposed plan, without prejudice to other effective means of preventing a resumption of hostilities and ensuring the tranquil course of the subsequent negotiations.

On September 15, the Brazilian Minister at Asunción telegraphed to M. de Mello Franco the reply of Paraguay to the new Brazilian suggestion.

Paraguay contended that, in the A.E.C.P. proposal, the words "the whole question of the Chaco" were not open to interpretation in the manner suggested by Brazil. The Chaco, Paraguay argued, was a territory with natural boundaries that could be determined by appropriate methods. It could not therefore be cut down to mean the territory between parallel 20° and the River Pilcomayo, and between meridian 62° and the River Paraguay. To admit this suggestion would be tantamount to curtailing the rights upheld by Paraguay and would at the same time make large concessions to the Bolivian claim. The object of Bolivia had throughout been to obtain an area in the Chaco without arbitration of any kind. The proposal now put forward rendered this possible at the expense of Paraguay's rights, which she was not prepared to surrender. It was incorrect to speak of "the whole question of the Chaco" if it were to be thus limited in favor of Bolivia. To claim to indicate beforehand the limits of the zone which was to be submitted to arbitration was neither reasonable nor likely to promote the success of the present efforts. In the Paraguayan view "the whole question of the Chaco" was identical with the entire dispute existing or capable of arising in virtue of the conflict between the two countries, whether in respect of territory, frontiers or responsibility, or any other matter connected with the conflict.

As to the proposal to suspend hostilities, leaving the armies in position pending the signature of the definitive arbitration agreement, that was in

accordance with the Bolivian claim to negotiate under armed pressure. So long as the armies remained confronting one another, there would also be danger of a resumption of hostilities in the event of disagreement. In the opinion of the Paraguayan Government, the new proposal was not in accordance with the proposal of August 25. It was a proposal for the suspension of hostilities and not for the close of operations. The result would be that the negotiations would take place during a precarious armistice. Real peace could only be reëstablished by the signature of the arbitration treaty—and that would be months, or years, later.

Paraguay accordingly adhered to the reply made by her to the proposal communicated on August 25 by the four neighboring States.

As, on the other hand, Bolivia was not prepared to accept the proposal of August 25 unless supplemented by the Brazilian suggestions of September 1, and amended in the manner indicated by Bolivia herself on August 5, all attempts to bring together the very divergent views of the Governments remained vain.

When the President of the Argentine Republic visited the President of the United States of Brazil a few days later, the possibility of suggesting a new peace formula was considered in the course of the conversations on that occasion at Rio de Janeiro.

This attempt marked the close of the efforts of the neighboring States.

From the study of the latest documentary material and the additional explanations furnished to it, the Commission was in a position to draw the conclusion, before it began its labors, that the two countries had become more and more uncompromising in their views in the course of years of fruitless negotiations, and that war had rendered the national standpoints even more unalterable. Paraguay was not prepared to negotiate a settlement of the substantive question so long as hostilities continued, while Bolivia insisted that a final agreement must ensure such a settlement.

Chapter III

THE COMMISSION'S WORK FOR A SETTLEMENT OF THE CONFLICT

In the introduction to this report, reference has been made to the terms of the reports of May 20 and July 3, 1933, and January 20, 1934, in which the Council defined the Commission's terms of reference.

Inasmuch as the Council reserved the option of calling upon it later for "an enquiry into all the circumstances of the dispute, including the action of the two contending parties"—a question which will be dealt with in Chapter IV —the Commission was essentially a negotiating commission, with the task of endeavoring to bring about the cessation of hostilities, which had begun in June 1932, and the settlement of the dispute, which dated from the last century.

THE COMMISSION'S ACTION BEFORE THE ARMISTICE AND DOWN TO THE EXPIRY OF THE ARMISTICE

Invited in the first place by the Paraguayan Government, the Commission proceeded first to Asunción.

THE PARAGUAYAN VIEW

The Commission was received on the day of its arrival by the President of the Republic, who delivered an address from which the following is an extract:

. . . From the beginning of the Chaco conflict the League of Nations has never ceased to display the most laudable anxiety to bring about an honorable settlement. Owing to circumstances which are familiar, it has only quite lately been able to take the matter in hand; but, even during the period when American nations were uniting their efforts to stop the struggle which is staining the Chaco with blood, the League never ceased to support with its authority, and aid with its advice, the forces of good will that were at work.

You have before you the task of restoring in this part of the world an international order that has been disturbed for nearly eighteen months. It will not be possible to say that that task is accomplished until hostilities have finally ceased, without any risk of subsequent renewal.

When one considers the origins of wars, and especially of this war, one can hardly help thinking how frail are the means available for preventing or stopping them. Counsels of moderation are urged upon the belligerents, they are shown how absurd the conflict is, humanitarian sentiments are preached to them—but we do not always ask ourselves what is the cause of the conflict. That cause may lie, perhaps, in some illusion of power, or in certain doctrines regarding the beneficent effects of war on the moral health of effete peoples. In any case, whenever there is a war, there is one party who wants it and one who suffers it.

An impartial examination of the facts may in many cases reveal the responsible parties. But is it expedient to allot responsibilities? Efforts to restore peace take for preference the form of conciliation, but this line is not available unless both parties have a definite and identical desire to secure peace. That is generally not the case. Conciliation can only operate when there is a victor who obtains what he wishes and a vanquished party who is forced to yield it to him. The League of Nations is endeavoring to change this very inadequate method; it wishes to follow the method of conciliation so far as is possible and reasonable. That, in my view, will be the source of its future strength.

The kind of peace that is desirable is one that is not founded on the conception of victor and vanquished. In spite of everything, the peoples have need of one another, and they cannot give each other any useful help if there is a gulf of hatred between them. A just peace is a peace without victory and without defeat. Is it a peace without rancor? That seems doubtful. International justice, we must confess, has still but little power. Unhappily, the production of a judgment or a solemn pact does not suffice to confer a sense of protection.

The burden that will rest upon our shoulders in consequence of this present war would be lightened if we could resume our national labors with tranquil minds. Our people has an urgent need to develop its economic resources, and to attend to its intellectual and social progress. Such a programme can only be carried out in perfect security from outside attack. Painful experience teaches us that that security is for us the vital question; and it will not be found surprising that we should be adamant when our future—I might even say our very existence—is at stake.

We are sincerely desirous of coöperating in the work of the League of Nations. It is our duty, and it is in our interests. We will speak to you with complete frankness. The Commission will find every door wide open to facilitate the performance of its mission . . .

In this speech the Commission noted Paraguay's desire, already expressed at Geneva, to obtain a final cessation of hostilities, accompanied by guarantees of security to prevent any renewal; scepticism—also already expressed at Geneva—of the possibility of bringing peace about by conciliation; a desire to secure a just peace without victory and without defeat, but accompanied by doubt as to the efficacy of "international justice"; a charge against the adverse party of having sought the war, but no explicit request for an enquiry into responsibilities.

Subsequent conversations did not to any extent modify this general attitude adopted by the Paraguayan Government, but yielded some more definite ideas.

Paraguay held that the final cessation of hostilities, conditional upon adequate guarantees of security, was for the moment the fundamental question. She would not agree to an armistice to allow of negotiations, because a mere suspension of hostilities would operate in favor of her adversary. "Although this would require more time and more patience, it was necessary to arrive at a formula of permanent security" which, in Paraguay's view, as she had already stated on several occasions—"though her plan was not immutable"—should consist in the total demilitarization of the Chaco, the reduction of the two armies to the minimum consistent with the internal security of each State, and the end of the armament race, which was dangerous, and, indeed ridiculous, as between two countries that needed all their men and all their economic resources for their own development. Paraguay would agree, moreover, that Bolivia, having a larger population than her own and a very extensive territory, should retain a larger army. She asked, however, that the demilitarization of the Chaco and the reduction of effectives should be placed under the guarantee and supervision of the League of Nations, such supervision to be exercised at the request of the parties concerned, there being no need to maintain permanent supervisory officers on the spot.

As to the settlement of the substantive question, the Government of Paraguay was opposed to any immediate discussions of the bases of an arbitration agreement. Not until after the cessation of hostilities, it held, would it be possible to consider a legal decision, or even a direct agreement, dealing, not merely with the frontier, but with economic relations between the two countries.

While taking note of this fresh assertion of the thesis that the cessation of hostilities must have priority over the settlement of the substantive question, the Commission sought particulars of the possible nature of such a settlement, and the following explanations were given to it with the utmost frankness:

Attempts to arrive at a compromise had always failed, and, in the Paraguayan Government's view, always would fail. Inasmuch as Paraguay was the lawful owner of the whole of the Chaco, any compromise must inevitably

be at her expense. The Chaco was not a vague and undefined area, but a territorial denomination the meaning of which was perfectly specific both geographically and historically. Any legal settlement must respect that geographical and historical unity. A division of the territory on the lines of all the compromise solutions so far suggested—into three zones, one to be adjudged to Bolivia, one to Paraguay, and the third regarded as in dispute—would be an arbitrary and unreasonable division; for, if Paraguay was the owner of the Chaco, she had no reason for ceding a part of it to Bolivia; and, if Bolivia had sovereign rights, Paraguay must be totally excluded. "Compromise solutions, which had been rejected by public opinion in Paraguay when Bolivia made a friendly request to Paraguay for an outlet to the river, had become yet more impossible since Bolivia's attempt to deprive her of her territory by force of arms."

There remained arbitration. Apart from the limited arbitration asked for by Bolivia, under which a portion of the Chaco was to be excluded for the benefit of Bolivia, who, if victorious, would have had the whole Chaco, but having failed, "wanted to be paid before she would agree to go to court," the Paraguayan Government recalled the fact that it had accepted various solutions—double arbitration, successive arbitrations, full arbitration. All of these consisted essentially in laying before a tribunal every dispute and difficulty existing between the two countries. Another course, perhaps the most satisfactory of all, would be to refer the whole question to the Permanent Court of International Justice, to which the parties would submit all their titles and state all their claims. But this question of the delimitation of the frontier by arbitration or by the Hague Court of Justice could now only be considered on the cessation of hostilities.

The same applied to economic questions, to which the Commission had attached great importance from the outset of the conversations. Could they be discussed now? It would be difficult to discuss free trade or railways while fighting was going on in the Chaco. Subject to this reservation, the President of the Paraguayan Republic was the first to recognize the importance of a settlement of economic problems. "If," he said, "Bolivia and Paraguay are to live in peace and maintain commercial relations, a permanent basis must be found. A good understanding will be better than an arbitral decision. Should arbitration not give Bolivia an outlet, the question will arise again later. Bolivia will continue to protest, and there will be no peace. . . . After the war, when public feeling has died down, opinion will again be favorable to concessions such as a free zone, a pipe-line for oil, etc. . . . The problems to be settled will first of all have to be defined. If a port is wanted, technical advice must be obtained and investigations made to determine the best routes of access from the Bolivian provinces. The selection beforehand of adequate lines of communication is of enormous importance."

Such, briefly, was Paraguay's point of view.

THE BOLIVIAN VIEW

Having thus been informed of the Paraguayan view, the Commission proceeded to Bolivia. When it arrived at La Paz, His Excellency President Salamanca addressed it as follows:

I do not think it superfluous to repeat that, as soon as the efforts at mediation of the American nations broke down, my Government gave evidence of its willingness to submit the Chaco conflict to the League of Nations, it being understood that any action taken by the League should respect the principle of national sovereignty and pursue the definite object of restoring peace on a legal basis or by an agreement freely accepted by the nations concerned.

We desire an honorable peace based on respect for law. Bolivia has at no time sought to enlarge her territory at the expense of her neighbors. The Chaco war in which we find ourselves involved was forced on us by the continuous advance of the Paraguayan occupation in territories which Bolivia considers to belong to her.

Faithful to our past international history, we relied from the outset of the conflict on the principle of arbitration on the basis of the *uti possidetis juris* of 1810 and of the declaration of the nineteen American nations of August 3, 1932.

The disinterested efforts made up to the present to bring about peace between the belligerents have been fruitless. I sincerely hope that the efforts now being initiated by the League of Nations will prove more successful. These endeavors will meet with no opposition from Bolivia, but, on the contrary, with effective coöperation . . .

While the address of the President of Paraguay had emphasized that the final cessation of hostilities was of essential importance to his country, the speech of the President of Bolivia laid stress on the familiar contention that an agreement between the parties for legal arbitration on the basis of the titles inherited from the Spanish crown was essential for the settlement of the conflict.

The "Continental" declaration addressed by the nineteen other American Republics on August 3, 1932, to the Governments of Bolivia and Paraguay, stated in its last sentence the following principles: "The American nations further declare that they will not recognize any territorial arrangement of this controversy which has not been obtained by peaceful means, nor the validity of territorial acquisitions which may be obtained through occupation or conquest by force of arms."

EFFORTS OF THE COMMISSION TO RECONCILE THE TWO POINTS OF VIEW

During the conversations of the Commission with the Bolivian Government's representatives, the Commission reminded them of the Paraguayan point of view and of the impossibility of reconciling such divergent opinions without a great effort of good will. Since Bolivia had agreed that the negotiations of the arbitration instrument and the cessation of hostilities should be simultaneous, the latter should not be regarded as a subordinate question, and the Commission persuaded the Bolivian Government to agree that its military members, who were well acquainted with the guarantees of security demanded by the Paraguayan Government and military authorities, should examine the question with qualified representatives of the Bolivian Government.

As regards the settlement of the substantive question, the Commission pointed out that, since Paraguay had acceded without reservation to the Optional Clause of the Statute of the Hague Court of Justice and indicated a preference for a settlement by the latter, the Statute of the Court and the high authority of the judges might well be regarded as providing the best guarantees of a legal arbitration, in contrast to what the parties called a "judgment of Solomon," which they both rejected. If Bolivia, in accepting the compulsory jurisdiction of the Court of Justice for her dispute with Paraguay, agreed that the latter, like herself, could freely submit her claims and titles to that court, the highest international judicature would pronounce a legal judgment, and the long-standing Chaco conflict might be settled without leaving in the minds of either people the suspicion that it had been the victim of an injustice because it had been unable to secure full consideration for all its titles.

The Bolivian Government accepted the jurisdiction of the Permanent Court at The Hague, but insisted that the arbitration agreement should, on the one hand, stipulate for legal arbitration in keeping with the principles of the declaration of August 3, 1932, and should, on the other hand, fix the maximum claims of the parties as stated by them at Geneva. Bolivia wished to be assured that Paraguay would not claim before the court frontiers more extensive than those which M. Caballero de Bedoya had indicated to the Council, more particularly in his letter of June 6, 1933.

In communicating Bolivia's views to the Paraguayan Government, the Commission entertained the hope that the Government, despite its desire to secure first of all a definitive cessation of hostilities, would appreciate the opportunity which was afforded it of also obtaining a final settlement of the question of frontiers. As regards guarantees of security, the conversations initiated at La Paz showed that an agreement would be possible on the basis of the Paraguayan claims as they had been stated to the Commission. As for the settlement of the substantive question, it seemed sufficient—and the Commission had heard nothing at Asunción that suggested any doubt on the point—that the Paraguayan Government should confirm the declarations of its representative to the Council regarding the geographical boundaries of the Chaco.

As to the declaration of August 3, 1932, the Paraguayan Government, as soon as that declaration had been brought to its knowledge, had "confirmed its adherence to the cardinal principles of American doctrine and traditions" which were expressed in it. "Paraguay," said her Minister for Foreign Affairs, "regards the joint declaration of non-recognition of forcible occupation or conquest as an act of immense historical significance, and has the honor to express her unreserved concurrence therein."[29]

The Commission telegraphed to Asunción on December 12 to acquaint the

[29] White Book (Part I), published by the Ministry for Foreign Affairs, Asunción, 1933, page 215.

Paraguayan Government with the outcome of its initial negotiations at La Paz and the general lines of the agreement which it seemed possible to contemplate in consequence of those negotiations.

> The Commission [it said] is considering a formula according to which the Chaco dispute would be brought before the Permanent Court of International Justice. By that formula, Bolivia would accept, in respect of the present case, the compulsory jurisdiction of the court, which Paraguay has already accepted in virtue of her unreserved accession to the Optional Clause. After the ratification of the agreement, the case would be submitted to the court by way of applications in which each Government would give its own definition of the subject of the dispute and would formulate its claim. The two applications would be forwarded to the court on the same day. The two Governments would announce their full concurrence in the declaration of the American Republics, dated August 3, 1932. Hostilities would finally cease when the agreement was put into force; in addition to the arbitration clauses, the agreement would contain security clauses which are now under consideration.
>
> The Commission's impression is that Bolivia will not be able to accept the foregoing proposal unless Paraguay confirms the fact that she will ask the Hague Court only for the boundaries of the Chaco which she has several times described—in particular, in the letter from her representative at Geneva, dated June 6, 1933, published in the *Official Journal* of the League of Nations. The Commission would be glad to receive confirmation of these boundaries by telegram, and subsequently in writing; such confirmation might either be embodied in the agreement or appended to it.

On December 15, the Commission received a reply in the following terms:

> The Paraguayan Government reiterates the declarations it made to the Commission when the latter visited Paraguay. It repeats that it is most anxious to bring the conflict to an immediate end, and is convinced that the most appropriate means is to be found in the final cessation of hostilities, accompanied by adequate measures of security. When these conditions have been obtained, steps might be taken to determine the responsibilities and at the same time to seek, by the most suitable means, a settlement of the questions in dispute between the belligerents.

Thus the Paraguayan Government maintained unaltered the view regarding the priority of the final cessation of hostilities which it had already stated to the Council and to the Commission. That attitude put peace entirely out of the question, because Bolivia, on the other hand, stood firmly by the Council's report of July 3, 1933, which had recorded her acceptance of the despatch of the Commission with the statement that "the Bolivian Government agrees to the arbitration agreement and the suspension of hostilities being negotiated simultaneously, so that a combined solution may be arrived at."

After the effort it had made to extricate the question of the settlement of the dispute from the atmosphere that had been stifling it for years, by endeavoring to obtain for Paraguay the security she demanded, and for both countries a fair and honorable settlement, the Commission was once more faced by the difficulties that all who have lent their good offices to the parties have encountered.

Those difficulties, moreover, were to be aggravated by the fact that Paraguay, since she had launched a great offensive and was beginning to win big

successes, was entitled to believe that her view would triumph, and that Bolivia would have to agree to the cessation of hostilities, accompanied by the guarantees of security demanded by her adversary.

The Paraguayan Government, which had constantly maintained that it would not agree to a mere armistice, proposed one after its victory at Zenteno.

On the afternoon of December 18, the Commission received from Asunción the following telegram, signed by the President of the Republic of Paraguay:

> The Paraguayan Government would like to obtain further information and to submit its views, if it had the privilege of entering into direct communication with the Commission at some neutral place. It is the Government's intention to bring the Chaco struggle to an end as quickly as possible, in order to save lives and avoid suffering. The number of Bolivian prisoners is nearly 14,000. They cannot receive proper care so long as the war continues, owing to insuperable material difficulties. The wounded and sick prisoners also require attention. Hundreds, perhaps thousands, of Bolivian soldiers, lost, concealed in the forests, need help that the Paraguayan army will give them with the utmost good will. The conditions of security and peace must be so agreed upon that ratification by the Congresses of the two countries is certain.
>
> Accordingly, the Paraguayan Government proposes:
>
> (1) A general armistice to be effective from midnight of December 19/20, 1933, to midnight of December 30/31;
>
> (2) The League Commission to meet as soon as possible in a River Plate capital, inviting the belligerents forthwith to appear before it in order to negotiate conditions of security and peace.
>
> In view of the circumstances, the Paraguayan Government earnestly requests a direct reply, which is demanded by the urgency of the case, so that orders may be given for the suspension of hostilities.

Bolivia accepted the armistice, and the Commission convoked the plenipotentiaries of the two parties at Montevideo.

A summary of the negotiations down to the expiry of the armistice, which Paraguay would only agree to prolong until January 6, was communicated to the Council by the Commission's telegram dated January 12, the substance of which is as follows:

> On the eve of the Council meeting, the Commission thinks it advisable to outline the situation. In the discharge of its mandate, the Commission, after its conversations at Asunción, its visit to the Chaco, and its first interviews at La Paz, communicated to the two Governments the principles of a plan which, taking as far as possible into account the points of view expressed by the Paraguayan representatives before the Council, during the negotiations of the adjacent States, and subsequently before the Commission, appeared, the Bolivian Government being in agreement, calculated to put an end to hostilities and secure a settlement of the substantive question.
>
> The armistice proposed on December 18 by Paraguay, who invited the Commission to preside over the negotiations regarding the conditions of security and peace in a River Plate capital, was utilized for an endeavor at Montevideo—in an atmosphere of peace and coöperation created by the International Conference of American States, and with the active sympathy of the President of Uruguay, mandatory of the Special Committee set up in that Conference—to put into practice the principles of the Commission's plan—*viz.*:

(1) The adoption of a procedure for the settlement of the substantive legal question, each party submitting his claims to the Permanent Court of International Justice;

(2) A system of security involving the withdrawal of the armies to the edge of the Chaco, their demobilization within a fixed period, the limitation of armaments during a period long enough to allow, not only of the settlement of the substantive question, but of a lasting removal of tension, and an international supervision of the above security measures;

(3) An endeavor to devise measures which, apart from any territorial consideration, may improve the communications with abroad, not only of Bolivia but of Paraguay.

With this object, the Commission was able, as from December 24, 1933, to utilize the resolution adopted by the International Conference of American States, on the motion of the Argentine, concerning the meeting of a conference of the adjacent States under the auspices of the Pan American Union.

The Commission's conversations with the Paraguayan plenipotentiary and military assessor, which latter did not arrive at Montevideo until December 29, and, subsequently, the information obtained by the delegation of the Commission which proceeded to Asunción by air on January 1, showed that Paraguay was not prepared to accept this comprehensive plan. That country's representatives desired—prior to any attempt to find a solution of the substantive question, from which the Hayes Zone, the littoral of the River Paraguay, and a hinterland to be determined, would be excluded—the organization of a system of security which would allow of the removal of tension. They considered that such a system should involve the occupation of Paraguayan troops of a zone of security in the Chaco, which should be completely evacuated by the Bolivian troops.

All efforts, in the two days following the return of the Commission's delegation from Asunción, to reconcile the points of view of the two countries and prevent the resumption of hostilities by examining the chances of success of a security formula, were rendered vain by the expiry of the armistice, which the Commission had asked to be extended to January 14, but which Paraguay agreed to extend only to the 6th.

The Commission, which, in the atmosphere created by the armistice, might hope to reconcile the parties, considered that the continuance of its negotations was incompatible with the resumption of hostilities, and intimated this to the two Governments. As the Council's mandatory, the Commission leaves the Council to judge of a situation of which it has indicated the essential elements, and it awaits on the spot the result of the Council's deliberations.

The Commission's Action following the Report adopted by the Council on January 20, 1934

The Council decided, on January 20, to ask the Commission to continue its work.

The Commission considers [says the report of January 20,] that, failing further instructions from the Council, the continuance of negotiations is incompatible with the resumption of hostilities. The Council would call attention to the fact that, when it adopted its report of July 3, it was faced by an absolute difference of opinion between the two parties on this very question, and came to the conclusion that the only practical solution would be for the Commission to discharge its functions, taken as a whole, as best it could, having regard to the situation on the spot, with a view to bringing about a speedy and permanent settlement of the dispute.

The fact that the two parties express the wish to see the Commission resume its work creates a situation which allows us to hope for a rapid success.

The Council attaches the highest importance to the continuance of the Commission's efforts. It considers that arbitration, whatever may be its form, is one of the best ways of arriving at a settlement of the dispute. In the present circumstances, however, the Com-

mission's mandate cannot be thus limited; it will have, in particular, authority to consider every method for reaching an agreement, including, for instance, the conclusion of an armistice presenting sufficient guarantees to enable a solution to be reached as soon as possible of the questions referred to in Nos. 1 and 3 of the proposals mentioned in the Commission's telegram of January 12. Question No. 3, in particular, could be investigated with the assistance of the neighboring Powers, in the spirit of the Argentine proposal adopted by the recent Pan American Conference. With regard to the substantive settlement, the Council considers that it is competent to the Commission to try every means of reaching a settlement: judicial settlement, arbitral settlement or direct settlement, aided, if necessary, by good offices, the essential aim being to arrive at a solution which will ensure peace and good relations between the parties. . . .

The Council is sure that it can rely upon the States members of the League, and more especially the neighbors of the parties, to lend the Commission every aid and assistance that might faciliate its work. It appeals to the two contending Governments to give proof of political wisdom and to arrive without delay at a settlement of the dispute by which they have so long been divided, so that, in the future, their mutual relations may be such as to preclude all further conflict.

While inviting the Commission to pursue its task, the Council cordially thanks it for its past efforts and expresses its admiration for the energy, impartiality and wisdom the Commission has displayed; it assures the Commission of the fullest support in its future efforts. The Council requests the Committee of Three to continue to devote all its attention to this question and, as hitherto, to take such steps as it may think fit during the intervals between sessions.

Although the Council, in virtue of the above report, had enlarged the scope of the Commission's mandate, the parties, as soon as the negotiations reopened at Buenos Aires, again insisted on their demands. Paraguay desired the conclusion of a treaty of security and peace, the settlement of the substantive question being postponed until later; Bolivia urged the necessity of concluding an agreement on the substantive question, the security clauses which were to be negotiated simultaneously with this agreement being regarded as a corollary.

In this situation, which made any progress impossible, the first plenipotentiary of Paraguay, Dr. Zubizarreta, formerly Chairman of the Paraguayan delegation to the Buenos Aires Conferences in 1928 and now Chairman of the Boundary Commission of the Ministry for Foreign Affairs, decided, in agreement with the Commission, to undertake the journey to Asunción which he had had in mind for some time past, and to which considerable importance could rightly be attached at that juncture. The Commission thought it desirable, after obtaining the Bolivian delegation's confirmation on this point, to inform Dr. Zubizarreta in the clearest possible terms that Bolivia would not accept a peace which did not contain definite stipulations for the settlement of the substantive question, and that any new proposal which, as the Bolivian delegation put it, "dodged" that question, would be doomed in advance to the same failure as other previous attempts.

Dr. Zubizarreta proceeded to Asunción on January 25 and brought back on February 7 the following main outlines of a treaty of security and peace.

After various military clauses containing the guarantees of security which

Paraguay had demanded after her victory in December (withdrawal of Bolivian troops from the Chaco, but maintenance of Paraguayan troops at the termini of the narrow-gauge railways; policing of the whole of the Chaco by Paraguay; reduction of the effectives of the two armies to the same figure; an undertaking by the two countries—the only undertaking which was to be supervised by the League of Nations—not to acquire armaments), Paraguay proposed that Bolivia and herself should undertake "to settle the question of boundaries by legal arbitration." While the military clauses were to be put into effect as soon as the treaty was signed, without awaiting ratification by the two Parliaments, the undertaking to settle the question of frontiers by legal arbitration would require such ratification in order to come into force; this ratification having been obtained, the two parties would then negotiate an arbitration agreement, fixing the specific subject-matter of the controversy, the procedure to be followed, the manner in which arbitration was to take place and all other points connected with the arbitration agreement. The latter would, in its turn, have to be ratified by the two Parliaments. Moreover, the tribunal agreed upon by the parties would undertake an enquiry into the responsibility for the present war with a view to pronouncing appropriate penalties.

These proposals, which the Paraguayan delegation put forward as an effort at conciliation, were based on the standpoint invariably maintained by Asunción: cessation of hostilities and prevention of any possibility of their resumption by adequate measures of security; and later discussion of the substantive question.

Although the Commission felt, after its interviews at La Paz and its latest conversations with the Bolivian plenipotentiaries, that the Paraguayan proposals were very likely to be rejected at once, it communicated them to the Bolivian delegation with the request that they should be very carefully examined. If Bolivia was prepared to entertain the idea, the proposals offered her a means of securing the cessation of hostilities, which were going against her, and of preventing further bloodshed, in accordance with the principles laid down by the Council; at the same time, she retained her freedom as regards discussions on the substantive question, which would take place in an atmosphere of peace more favorable to this type of negotiations. Lastly, Bolivia was naturally entitled to put forward counter-proposals.

The Bolivian Government's reply to Paraguay's proposals maintained the position previously taken up by Bolivia. The essential point for that Government was that the treaty of peace should stipulate legal arbitration on the basis of the principles contained in the declaration made by the American nations on August 3, 1932, and that the arbitration agreement should fix the maximum claims of the two countries, as already officially stated to the League of Nations. In the Bolivian Government's view, the Permanent Court of International Justice was to settle the dispute, without overstepping the limits thus fixed or entering into other points not included in the arbitra-

tion agreement, which was to lay down the rules of procedure for the settlement of the conflict in definite and imperative terms, while not disregarding the court's rules in that matter. As for the security clauses, demobilization and other clauses of a military character, they were to be settled by agreement between the representatives of the two countries, under the Commission's auspices.

The Bolivian Government further referred to its earlier declarations that "when legal arbitration, definitely ensuring the restoration of peace, had been accepted and approved, it would raise no obstacle to conditions of security, whatever might be their nature, which would contemplate a peace on a footing of perfect equality between the two countries, not attributing to one rights of occupation refused to the other, inasmuch as neither Bolivia nor Paraguay could fail to recognize that, once an agreement had been reached on the settlement of the substantive question, any idea of maintaining effectives greater than their needs in normal times would disappear."

In the words "when legal arbitration, definitely ensuring the restoration of peace, *had been accepted and approved*," the Paraguayan delegation saw a restatement of the thesis that the arbitration agreement must precede the security agreement, and in the words "conditions of security . . . which would contemplate a peace on a footing of perfect equality," it saw an absolute refusal to provide the guarantees of security for which Paraguay asked, and which, in her view, must be agreed to before she could commit herself to a final settlement of the substantive question—with which, moreover, she linked the question of an enquiry into the responsibility for the war.

The Commission continued its negotiations with the two delegations.

It first interviewed them separately, and then decided that it would be well to summon them together. This meeting, which took place on February 21, confirmed the Commission in its conviction that the parties would not of their own accord make concessions sufficient to bring about an agreement.

In view of this situation, the Commission concluded that the wide scope given to it by the Council's report of January 20, which had been adopted unanimously, with the concurrence of the parties, entitled it to make a final effort at solution by handing to the two delegations a draft agreement which it had itself drawn up. The Commission's reason for preferring the form of a draft treaty to some less specific form was that the experience of past negotiations showed that it was impossible to make the transition from general formulæ—even if accepted "in principle"—to specific provisions. It felt it to be its duty to acquaint the two Governments, in a sufficiently full form of words, with a reasonable formula which in its opinion, would enable them to arrive at a just and honorable peace. The acceptance of this formula, even "in principle," would have made it possible to continue the conversations with some hope of success, since the text in question contained detailed clauses dealing both with guarantees of security and with the settlement of the substantive question.

DRAFT TREATY PREPARED BY THE COMMISSION

The Commission communicated the draft treaty to the Council. The following is the text of the draft:

The Governments of Bolivia and Paraguay,

Being desirous of bringing to an end the state of war existing between the two countries by the adoption of adequate measures to ensure the final cessation of hostilities, as well as the definitive determination of their frontiers, by means of legal arbitration and in conformity with the principle laid down in the declaration made by all the other American Republics on August 3, 1932,

Have agreed on the following provisions:

(1) Hostilities shall cease twenty-four hours after the entry into force of the present treaty.

(2) In the following twenty-four hours, both armies shall begin to evacuate the positions occupied by them at the time of the cessation of hostilities and shall within forty-five days withdraw to the following positions:

(a) Bolivian army Villa Montes and Roboré;

(b) Paraguayan army: the River Paraguay.

(3) The demobilization of both armies shall begin at the same time as the withdrawal provided for in Article 2. All demobilized soldiers shall return to their homes within three months;

(4) At the end of these three months, and so long as the final judgment of the Permanent Court of International Justice fixing the frontier between the two countries has not been fully implemented, neither army shall exceed 5,000 men.

So long as the above clause limiting the strength of the two armies is in force, the two Governments undertake not to acquire arms or other war material.

Nevertheless, if during that period one of the two Governments should deem that an increase of its army or armaments is necessary, the Council of the League of Nations will have the power to grant such an increase, at the request of the Government concerned.

If one of the two Governments is of opinion that the provisions of the present article are not being carried out, the Council of the League of Nations will also deal with the question, at the request of that Government.

For the execution of the provisions of this article, the decisions of the Council will be taken without the votes of the parties being included.

(5) Pending the execution of the final judgment of the Permanent Court of International Justice fixing the frontier between the two countries, the latter may keep such police forces as will be necessary for the maintenance of order, as follows:

Bolivia will exercise police rights along the Upper Pilcomayo, in the regions lying to the east of the Chiriguanos Mountains and the Parapiti River, as well as in the regions lying to the south of the Chochi Mountains and Otuquís River.

For such police operations as may be necessary in those regions, Bolivia, in order to avoid possible difficulties with the Paraguayan police, undertakes not to go beyond meridian 62° (Greenwich) to the east, and parallel 19° 30′ to the south.

Paraguay will exercise police rights along the Lower Pilcomayo and in the regions lying to the west of the River Paraguay and the River Negro (or Otuquís).

For such police operations as may be necessary in those regions, Paraguay, in order to avoid possible difficulties with the Bolivian police, undertakes not to go beyond meridian 61° 30′ (Greenwich) to the west, and parallel 20° to the north.

Paraguay will, however, exercise police rights north of parallel 20° along the western bank of the Negro (or Otuquís) River, as far as Galpón. Police rights on the eastern bank of that river will be exercised by Bolivia. Paraguay will also exercise police rights, to the west of meridian 61° 30′ (Greenwich) along the northern bank of the Pilcomayo River up to meridian 61° 55′ (Greenwich).

As to the narrow strips of territory which, according to the above provisions, the police of

neither country is allowed to enter, the two Governments shall agree on such police action as may be necessary.

If, notwithstanding the firm resolve of both Governments to observe scrupulously the above provisions, incidents occur between Bolivian and Paraguayan police, and if such incidents cannot be rapidly settled, the Permanent Court of International Justice shall have the power to indicate provisional measures according to Article 41 of its Statute.

(6) After the coming into force of the present treaty, the Permanent Court of International Justice, at the request of the party which first brings the case before it, shall exercise jurisdiction over the dispute between the countries Bolivia maintaining on the one hand that her frontier with Paraguay is the Paraguay River and that her rights extend down to the confluence of the Pilcomayo and Paraguay Rivers, Paraguay maintaining, on the other hand, that her rights to the west of the Paraguay River extend: to the north, up to the frontiers between the former Paraguay province and the former military government of Chiquitos; to the west, up to the frontiers between that same province and the entities or provinces of Upper Peru, and that the court must establish which were those frontiers.

Nevertheless, in a spirit of conciliation, and on the understanding that the concessions mentioned below will neither weaken in any way the legal contentions or titles which either party may think fit to submit to the Permanent Court of International Justice, nor, if the present treaty does not enter into force, be invoked as precedents possessing any legal or moral value;

Bolivia, on the one hand, renounces the reservations she has made concerning the award to Paraguay by President Hayes of the territory between the Verde River and the main branch of the Pilcomayo River;

Paraguay, on the other hand, renounces the reservations she has made concerning the determination of the frontier between Bolivia and Brazil by the Treaty of Petropolis and consequently declares that she claims as her frontiers: to the north, the Chochi Mountains, the Aguas Calientes, Otuquis and Negro Rivers; to the west, the Parapiti River and the Chiriguanos Mountains, and, to the south, the Pilcomayo River.

(7) In the eight days following the entry into force of the present treaty, the two countries shall take the measures which are necessary for the repatriation of the prisoners, in conformity with international rules. The two Governments agree to send a request to that effect to the International Committee of the Red Cross and to accept the arbitration of its delegates for any difficulties which may occur. The expenses of those delegates shall be borne by the two Governments.

(8) The two Governments agree that, after the Permanent Court of International Justice has rendered its judgment, they will request the Pan American Union to convene the Conference of neighboring Powers, contemplated in the resolution adopted by the International Conference of American States on December 24, 1933, the mandate of the said Conference of neighboring Powers being "to study the coördination of all geographical and economic factors which might contribute to the development and prosperity of the sister nations."

(9) The present treaty shall be ratified according to the constitutional law of each of the two States. The two Governments will take without delay all measures necessary for that ratification. Should the national Congresses not be in session, they will be convened urgently for an extraordinary meeting.

(10) The present treaty shall enter into force twelve hours after its ratification by both countries. It will be registered with the Secretariat of the League of Nations, in conformity with Article 18 of the Covenant.

REASONS FOR THE COMMISSION'S FORMULA

(A) SECURITY CLAUSES

So far as security was concerned, it was useless, after the demands put forward by Paraguay following her victory in December, to revert to the

proposal she had previously made—the total demilitarization of the Chaco, under international supervision. Paraguay now wished not merely herself to protect the settlements that had been made in the part of the Chaco occupied by her, but to exercise an exclusive right to police even those areas which her armies had not reached, the Bolivian army being required to withdraw to the edge of the Chaco at Villa Montes and Roboré.

Those, Bolivia had definitely stated, were impossible peace terms. The Commission therefore reduced them to more acceptable proportions, giving Paraguay the right to police a large part of the Chaco, which would include at least the whole of the area in which civilian settlements have been made under the Paraguayan occupation. Bolivia, on the other hand, would retain the right to police her settlements in the north and west.

Like the clauses dealing with the policing of the Chaco, the military clauses aimed at giving both countries that adequate security which Paraguay made the condition of her agreement to the final cessation of hostilities: the demobilization of the two armies, their reduction, under supervision, to an equal strength until the decision fixing the frontier between the two countries should have been executed, and an undertaking, under supervision, not to acquire any armaments during the same period.

Inasmuch as Paraguay emphasized their essential character and Bolivia had declared herself ready to accept reasonable terms, these conditions of security seemed to the Commission calculated to give satisfaction to Paraguay, and to induce her to accept an equally reasonable procedure for the settlement of the substantive question.

(B) SETTLEMENT OF THE SUBSTANTIVE QUESTION

After the December victory, Paraguay's reluctance to submit to arbitration not merely the zone that had been assigned to her by President Hayes' award, but also the rest of the right bank of the River Paraguay as far as Bahia Negra and the extensive hinterland she had occupied, had become marked.

Despite the protestations of devotion to the cause of arbitration that she had made to the American nations and to the Council in 1932 and 1933—that is to say, not only before, but also after, the outbreak of hostilities—Paraguay had been more energetically maintaining, since her victory, the view already expressed to the Commission in November, that the war had set up a new situation, and that there could no longer be any question of allowing Bolivia to obtain by a legal settlement what she had attempted to win by force of arms.

Against this view was the Bolivian view—namely, that Paraguay, taking advantage of her geographical situation, had, little by little, extended her occupation of the Chaco, always evading a final settlement because time was working in her favor; that the hostilities then proceeding were only one phase—the most sanguinary phase—of a long struggle between the two countries,

but that it must be the last phase, and that a legal settlement must be arrived at.

Since it appeared from the declarations of the two parties, on the one hand, that the cessation of hostilities could no longer be contemplated except in the form of a final cessation accompanied by extensive conditions of security (the Paraguayan view), and, on the other hand, that such conditions of security were not admissible unless the peace treaty also guaranteed the two countries, in respect of the substantive question, the legal settlement already accepted by them (the Bolivian view), the Commission considered, in conformity with the terms of reference given to it by the Council, that, in addition to a system of guarantees to prevent the resumption of hostilities, it should propose a procedure which would bring about a final settlement of the conflict.

The basis of such a settlement was indicated in the proposals of the parties, both of whom spoke of "legal arbitration." All compromise solutions—and several were conceivable, regard being paid in particular to the economic interests of the two countries—were wrecked on the thesis of the geographical and historical unity of the Chaco which the President of Paraguay had expounded to the Commission in November, and on the Bolivian Government's firm determination not to accept anything but legal arbitration.

The President of Paraguay had said: "Economic arrangements will not be possible until after peace is concluded." The Bolivian Government had said: "No economic arrangement is possible before the legal settlement that must be stipulated in the treaty of peace has been executed."

Consequently, notwithstanding the Commission's desire to appeal for the coöperation of the Pan American Union, and especially of the adjacent States, as offered by the resolution which the Montevideo Conference adopted on the motion of the Argentine, however important it might be that that coöperation should facilitate the commercial relations of the two land-locked countries with the outer world, it seemed impossible to obtain the consent of the two parties to a settlement in which economic questions would be, or would appear to be, linked with the question of their frontiers.

Being convinced, however, that in the Chaco war the legitimacy of certain legal titles was not the only issue, but that under that superficial appearance economic interests played a decisive part, the Commission was particularly anxious to avail itself, to the full extent that circumstances might permit, of the coöperation offered by the Seventh International Conference of American States in the form of a post-war economic conference. Although the suspicions to which allusion has already been made rendered it essential that that coöperation should be given independently of the legal settlement of the Chaco question, and in such a manner as to dispel any apprehension of its influencing that settlement, the Commission still attributed the highest importance to the holding of the contemplated economic conference. That conference would be able to make a resolute attack upon a series of essential

problems affecting several sources of wealth, more especially oil, which, here as elsewhere, seems to play the part of fomenter of discord in modern economic life.

If legal arbitration is to be acceptable to both parties, it cannot be tied to the wording of an arbitration agreement in which the settlement of the question might seem to be prejudged. As the Commission had pointed out to the two Governments in December, both of them must be able to adduce all their titles, the arbitrator being required only to deliver a legal judgment, and the best guarantee that could be offered to the two parties in this matter was to advise them to apply to the Permanent Court of International Justice, whose Statute provides that it shall only decide a case *ex æquo et bono* if the parties agree thereto.

In its draft treaty, however, the Commission thought it advisable to exclude two areas from the arbitration, one being the area in the southern Chaco, north of the main branch of the Pilcomayo, which President Hayes assigned to Paraguay in the arbitration between the Argentine and Paraguay after the war of 1865–1870, and the other the area to the north of Bahia Negra, in which Brazil and Bolivia delimited their frontier in 1903 by the Treaty of Petropolis. This is the area which is shown on recent Paraguayan maps as belonging to Paraguay, inconsistently with the claims which fixed the Rio Negro and the River Otuquís as the northern boundaries of the Chaco.

(c) THE QUESTION OF THE HAYES ZONE

The Paraguayan nation attaches the greatest importance to the question of its right to the Hayes zone, which was adjudicated to it by arbitration, and the southern part of which is opposite the capital, the northern part being opposite Concepción. We are of course aware that, while relying more particularly on "prescription," Bolivia has made reservations regarding the arbitration of 1878, that she claims that her legal situation has been safeguarded, and that she is able to plead a case of *res inter alios acta;* but, in the eyes of the population of Asunción and Concepción, the Hayes zone is the opposite bank of the river, which has been in Paraguayan hands for a long time past and which was assigned to Paraguay by an arbitral award. Resentment against Bolivia increased when the latter, coming down the Pilcomayo, advanced her posts to the east of meridian 62°, in an area which, since it formed part of the Hayes zone, the Paraguayans regarded as belonging to them.

As President Ayala said to the Commission: "Bolivia, in setting foot in a territory which she could not occupy, committed a veritable act of conquest. We possess an international title, in the form of an arbitral award, to the Chaco zone south of the Rio Verde. We admit that Bolivia can invoke the rule of *res inter alios acta* and can call upon us to produce our respective titles before a court of justice; but she has done the contrary. . . . A State

which enters territory awarded to another State by arbitration commits an act of violence and conquest."

The Commission thought that Bolivia could forego producing her titles to the Hayes zone before the Permanent Court of International Justice. If President Hayes' award were no longer challenged, Paraguay would perhaps find it less difficult to accept arbitration for the rest of the Chaco, regarding which there has been no arbitral decision.

(D) THE ZONE TO THE NORTH OF BAHIA NEGRA

In proposing, further, that to the west of the Paraguay River, Paraguay should claim the geographical frontiers defined before the Council by M. Caballero de Bedoya, the Commission was guided by a consideration that had been indicated, with a great deal of good sense, by Dr. Ayala in his preface to Dr. Cardozo's book [30]: "No one who is not entirely blinded by prejudice can accept a contention which would have the effect of enclosing Bolivia in her mountains and denying her access to the River Paraguay."

This access Bolivia acquired by the Treaty of Petropolis. Eastern Bolivia can obtain an outlet on the River Paraguay to the north of Bahia Negra. The Commission did not rely merely on the information it received from various sources in this connection; it endeavored to make sure that the Bolivian claim to an outlet to the sea along the River Paraguay should be given satisfaction, even if Bolivia was not awarded a port further to the south by an arbitral decision. The enquiry undertaken by one of its members, Major Rivera Flandes, confirmed the information the Commission had received.

In his report (see Annex), Major Rivera Flandes described the unsatisfactory situation of Puerto Suarez in the Caceres Lagoon, but indicated at the same time the possibility of constructing a better port near the outlet of the Tamengo Canal, which directly connects this lagoon with the River Paraguay. The carrying through of this undertaking depends entirely on the funds available, for the project presents no insuperable practicable difficulty for the present-day engineer.

As regards the construction of a port in the zone further to the south between the Rio Negro and Coïmbra, the works to be undertaken would undoubtedly have to be on a considerable scale owing to the floods which occur there. Nevertheless, the canalization of the Rio Negro and the construction of suitable dykes would certainly make it possible to establish a port or ports on this section of the bank of the River Paraguay, although it would be difficult to say how far the volume of exports and imports taking this route would warrant the expenditure involved.

Experience shows that a country without a direct outlet to the sea, like Bolivia, may suffer from a feeling of suffocation and may plead, in justifica-

[30] Efraïm Cardozo, *El Chaco en el Régimen de las Intendias*, Asunción, 1930.

tion of a policy of despair, the necessity of obtaining satisfactory communications. Paraguay has repeatedly expressed the opinion that Bolivia suffered from a morbid feeling of this kind, and that this was one of the causes of the war. It is certainly true that this question of access to the sea is one of the matters that are seriously engaging the attention of Bolivian public opinion. In these circumstances, the Commission thought that it was in the interest of Paraguay, since she was claiming the right bank of the River Paraguay as far as Bahia Negra, not to claim the area further to the north. While disputing the final character of the Treaty of Petropolis, Paraguay, far from allowing Bolivia to escape from the obsession with which she reproaches her neighbor, tends to encourage a policy of despair.

While it therefore seems politically wise for Bolivia to renounce any claim to the Hayes zone, it would appear equally wise for Paraguay not to call in question the frontier between Brazil and Bolivia north of Bahia Negra, since the present line, which was obtained by Bolivia in return for very considerable territorial compensation, might offer that country, if it undertakes the necessary works, a possibility of access to the River Paraguay.

In a lecture delivered at Asunción in 1932, a summary [31] of which was published by order of Dr. Benitez, Minister for Foreign Affairs, Dr. Manuel Dominguez, one of the Paraguayan authorities on the Chaco question, said:

> Bolivia is continually repeating that she is being strangled and suffocated because she has no outlet on the bank of the River Paraguay. This is by no means certain. The Treaty of Petropolis gave Bolivia a stretch of fifty kilometres along the bank of the River Paraguay from the northern channel of the Rio Negro to a point nine kilometres as the crow flies from Coïmbra. If she so desires, she can construct there two hundred ports or customs-houses each 250 metres long. It is objected that the land is low-lying; but Holland lies still lower and has magnificent ports. With a hundreth part of what she has spent in usurping our Chaco, Bolivia could, and still can, obtain admirable ports and customs-houses with the help of modern engineering. As regards the tonnage of the vessels, it is well known that every week vessels, some even of 1,000 tons, carrying goods of all kinds, sail from our port of Asunción for Corumbá beyond Coïmbra and Albuquerque.

Dr. Dominguez can only be right if his Government, by whose orders his lecture was published, confirms the fact that Paraguay's claims stop at Bahia Negra.

Communication of the Draft Treaty to the Argentine and Uruguayan Governments and to the Ambassadors of the United States of America, Brazil, Chile and Peru

When the draft treaty reproduced above had been communicated to the two delegations, the Commission thought it advisable to convey its substance to the Governments of the Argentine and Uruguay, which had offered their hospitality for the Commission's negotiations, to the Government of the United States of America, which, on the final day of the Montevideo Con-

[31] Dr. Manuel Domínguez, *Bolivia y sus Mistificaciones*, Asunción, 1932.

ference, had moved a resolution supporting the efforts of the League Commission, and to the Governments of Brazil, Chile and Peru, which, with the Argentine Government, had been invited by the Council, in August 1933, to undertake joint action with a view to the settlement of the conflict. Copies of the draft treaty were accordingly delivered to the Foreign Offices of the Argentine and Uruguay, and to the ambassadors of the other above-named Powers at Buenos Aires.

All the Governments to which the draft treaty was communicated, together with the countries which were represented by nationals on the Commission, addressed to Bolivia and Paraguay an appeal on behalf of peace.

Replies of the Two Governments to the Commission's Proposals

The Commission had asked the two Governments to inform it before March 1 whether they accepted or rejected its draft treaty. This time-limit was extended at the request of the Bolivian Government.

The replies of the two Governments, both rejecting the draft treaty, are appended to this report.

Attempt to Resume Negotiations

The Bolivian delegation having suggested in its reply that it would be expedient to hold conferences "under the Commission's auspices," the Commission called the attention of the Paraguayan delegation to this proposal.

The Paraguayan Government replied, on March 10, that it had no confidence in the efficacy of the further negotiations suggested by Bolivia, but that, if the Commission cherished any hope of success, it would be prepared to take part in such negotiations. They could, in any case, be brought to an end at any time when the Commission or one of the parties might think their further continuance useless.

A single meeting between the Commission and the two delegations sufficed to show that the latter were in agreement on one point—namely, that the continuance of negotiations was unprofitable.

The Question of the Violation of International Law

In its memorandum of March 10, the Paraguayan Government had raised two other questions. "Independently of the contemplated negotiations," it said, "the Commission should undertake enquiries into the responsibility for the war and into the violations of international law."

The question of the responsibility for the war will be dealt with in the next chapter of this report. It may be well to say a few words here on the question of the violations of international law.

In an earlier note, dated March 8, the Paraguayan delegation had specified that the enquiry which it demanded into the violations of international law should deal with the treatment of prisoners—a question which had long been

the subject of bitter controversy between the two countries, each accusing the other of ill-treating prisoners.

As soon as it arrived in America, the Commission took up a very definite attitude on this point. Having a mandate to endeavor to restore peace, it counselled moderation to the two parties throughout, and begged them to avoid, as far as possible, any acts or allegations that might separate them still more widely and make the negotiations more difficult.

Apart, however, from this advice, which was frequently listened to, the Commission refused to allow itself to be drawn into official enquiries, which might not merely distract it from its essential task, but make the performance of that task still more difficult by further embittering the polemics on the subject of violations of international law which had been continuing almost without interruption since the outbreak of hostilities.

When, a few days after its arrival in America, it received from the Assessor whom the Bolivian Government had just accredited to it a request for an enquiry into the treatment of Bolivian prisoners in Paraguay, the Commission defined its attitude in the following letter:

As regards your request for an investigation into the treatment of Bolivian prisoners in Paraguay, I am instructed by the Commission to inform you that it is prepared to take any opportunities which may arise to interest itself in the lot of prisoners of war. Nevertheless, the Commission ventures to submit to you, through my agency, the following observations:

In virtue of Article 25 of the Covenant of the League of Nations, its members agree to encourage and promote the establishment and coöperation of voluntary national Red Cross organizations for the mitigation of suffering throughout the world. From this text it may be inferred that the authors of the Covenant, far from proposing to substitute the organs of the League of Nations for the Red Cross organizations and the international body responsible for coöperation, desired, on the contrary, to encourage them and promote their activities in their own sphere. When, in 1929, the representatives of the Governments met at Geneva to draft the text of the Convention on the Treatment of Prisoners of War, they unanimously adopted the above point of view. The convention in question makes no provision for the intervention of the League of Nations to supervise the execution of its provisions. This task devolves on the protecting Powers responsible for safeguarding the interests of the belligerents, without prejudice to any activities which might be undertaken by the International Red Cross Committee, in agreement with the belligerents concerned.

As you point out, the said committee has already sent a delegation to the two contending countries, and a summary of the delegation's work has been published in the International Red Cross Review. In our opinion, the best course would be, in accordance with the spirit of the international agreements in force, that the Red Cross should continue to deal with the question, since it possesses great experience on the subject and a competence which the Governments taking part in the Conference of 1929 recognized afresh as a result of the great services rendered by that institution in the past, and particularly during the Great War.

If to these legal considerations we add reflections of a moral order, which will readily be understood, regarding the necessity of respecting the powers of an independent institution recognized by the Governments and rightly enjoying universal confidence, we cannot avoid the conclusion that, after a careful examination of the relevant texts, the Commission cannot regard itself as authorized to undertake officially a special enquiry into such a delicate question.

When, a few days before leaving America, it received from the Government of Paraguay the request for an enquiry into the treatment of prisoners, to which reference was made above, the Commission sent that Government a copy of its reply to the Bolivian Assessor, adding that in its opinion the arguments therein adduced still held good.

That does not alter the fact that this war, like all others, has been accompanied by acts of violence contrary to the generally accepted rules of international law, and it is to be feared that, with the growing exasperation which may be expected if the struggle continues, the number of such acts will increase. But, apart from the services rendered and still capable of being rendered by the international Red Cross Organization and disinterested humanitarian appeals, such as those of the Holy See, the Commission considers that, in the present conflict, the only way of preventing the recurrence of inhuman acts of violence is to put an end to the war.

Chapter IV

THE QUESTION OF THE ENQUIRY INTO THE RESPONSIBILITY FOR THE WAR

In its draft treaty of peace, the Commission deliberately avoided any reference to the question of responsibility for the war.

As regards the expediency of an enquiry on this subject, the Commission forwarded by air mail on March 10, 1934, the opinion for which the Council had asked it in its report of July 3. This opinion reads as follows:

After endeavoring to carry out its mission, which consisted in negotiating any arrangement calculated to bring about a cessation of hostilities and the settlement of the substantive question, the Commission considers it advisable to transmit to the Council the opinion for which the latter asked it in its report of July 3, 1933, concerning the expediency of an enquiry into all the circumstances of the dispute, including the part which the two countries have taken therein.

(1) As regards the interpretation to be given to the words "all the circumstances of the dispute," the Commission noted that, in the communication from the Paraguayan Government transmitted on June 6, 1933, by the permanent delegate of Paraguay, that country asked for an enquiry to "determine which of the two countries has been the cause of the outbreak and continuance of the war, and to fix the responsibilities." Moreover, according to the letter of the plenipotentiary delegate of Bolivia dated July 5, 1933, the Bolivian Government regards it as essential that the investigation, if it takes place, should include all the earlier history of the conflict since the Washington Agreement of 1929, or at all events since the conferences on the Pact of Non-Aggression. To this letter from the Bolivian delegate, the Acting Chairman of the Committee of the Council replied that the Bolivian Government could be entirely reassured as to the scope of this investigation which, if decided upon, should, in order to be complete, go back, the Committee of the Council considered, at least to the period of the Washington discussions for the conclusion of a Pact of Non-Aggression.

(2) As regards the question of the expediency of such an investigation, the Commission, in accordance with the spirit and the letter of the report submitted to the Council on May 20, 1933, in which its terms of reference are defined, does not consider that, as long as it was endeavoring to bring about the cessation of hostilities and a settlement of the dispute, it should

or need enter into considerations of a different order. The two Governments concerned shared this view, and neither of them submitted to the Commission any documentary material on the question of responsibility for the war.

(3) The general proposals put forward on February 7, 1934, by Paraguay for the conclusion of a treaty of security and peace with Bolivia contained an article in virtue of which a judicial procedure was to be instituted before the tribunal chosen by the parties, with a view to opening an enquiry, fixing the responsibility for the war, and determining the appropriate penalties.

The Commission, having regard to the spirit of the reports submitted to the Council on May 20 and July 3, 1933, and January 20, 1934, concerning the cessation of hostilities and the settlement of the dispute, considered it dangerous to insert in a text which, according to the report of January 20, was to "ensure peace and good relations between the parties," a clause the execution of which could not fail to stir up controversies as to the past that would prevent the creation of a peaceful atmosphere.

The Paraguayan Government, after stating various objections to the draft treaty submitted to the parties by the Commission, now asks the latter to consider, as one of the general bases of the treaty of peace which it is contemplating, the insertion in that treaty of a clause whereby the Commission would be authorized to undertake an investigation to ascertain who is responsible for the origin of the war, and to draw up a report to enable the League of Nations, through its competent organs, to determine the appropriate penalties. According to this proposal of the Paraguayan Government, the Commission's enquiry thus depends upon the conclusion of the treaty of peace, this enquiry being undertaken in virtue of a clause in the said treaty. For the reasons indicated above, the Commission does not consider that a clause of this kind should be included in the treaty of peace, and, in accordance with the reports adopted by the Council with the concurrence of the parties, it is of opinion that the question of an enquiry should only be considered if the restoration of peace appears to be impossible and if, as stated in the report of May 20, the Council, having been unable to bring about the cessation of hostilities and a settlement of the dispute, should consider it necessary or expedient to enter into considerations of a different order.

(4) The Commission, which still believes that the draft treaty submitted by it to the parties ought to provide a basis that will enable them to agree on the cessation of hostilities and reach a final settlement of their dispute, does not think that the time has come when the Council, having abandoned all hope of securing the restoration of peace by an amicable arrangement between the parties, should take a decision upon the question of an enquiry into all the circumstances of the dispute, including the action of the two contending parties.

(5) Should the Council reach a different conclusion, however, the Commission is at its disposal to supply it, in the light of the experience it has acquired during its present mission, with a detailed and reasoned opinion on the conditions in which such an enquiry could be carried out.

This communication clearly expresses the Commission's views on the question; but, in order to dispel any misunderstanding, it considers it desirable to explain its attitude more fully.

The Commission has indicated on several occasions in the present report its final aim and supreme aspiration—to secure peace by removing every obstacle in the way. Its draft treaty of peace was designed to bring closer together two points of view which were already sufficiently far apart to make it undesirable to introduce fresh complications.

To include the question of responsibility for the war in the draft treaty would have been to some extent to alter the character of the efforts for peace

by introducing a new cause of discord into a situation already clouded by mutual misunderstanding and hatred.

As long as any hope of an amicable settlement remained, these efforts had to be pursued, and the Commission would have acted unwisely if it had allowed itself to be drawn on to the delicate ground of the "responsibilities."

The Commission was not alone in taking this view. Before the negotiations had become complicated, its opinion was shared up to a certain point by the Government at Asunción, which later insisted with special force on the opening of an enquiry. In his speech of welcome quoted in Chapter III of this report, President Ayala said to the Commission: "An impartial examination of the facts may in many cases reveal the responsible parties. But is it expedient to allot responsibilities?"

A few days later, when the Commission was leaving Asunción, the President of the Republic again touched on the same subject: "We have material in our possession," he said, "which proves that we are innocent and Bolivia guilty. We will not give it to you now, as your mission is primarily to restore peace. We reserve the right to lay it before you later, at the proper time."

The Commission did not consider that the proper time was when it was submitting its draft treaty of peace.

In the same spirit as that which had prompted the remarks of President Ayala during the Commission's visit to Asunción, the resolution adopted on December 26 by the Seventh International Conference of American States at Montevideo, on the motion of the United States of America, expressed the Conference's "unalterable opinion that the question of honor is not now involved as to either nation, but that both parties can cease fighting with entire credit to themselves."

Any other attitude on the part of the Commission would have been incompatible with the very purpose of this wise resolution of the International Conference of American States, which had honored the Commission with its confidence.

The Commission is acquainted with the accusations which the two Governments bring against each other; but it considered, and still considers, that, if, as the Council states in its report of January 20 last, "the essential aim is to arrive at a solution which will secure peace and good relations between the parties," then, as long as there is the slightest possibility of an amicable arrangement, it is not by an enquiry, with the prospect of sanctions, that such result will be achieved and the necessary improvement brought about in public feeling.

The situation might be very different if the two parties were to maintain an unyielding attitude in spite of the Council's recommendations for the restoration of peace. In that event, the Council might consider it necessary to order a strict enquiry into the question of responsibility for the war, and, in the Commission's opinion, such an enquiry would have to be both thorough and broad in scope.

The Commission would never have lightly consented to conduct an enquiry. The documentary material which President Ayala stated he might possibly send in was never received by the Commission. It was, moreover, in the course of the later negotiations that the Paraguayan plenipotentiaries laid special stress on the question of responsibility; at this time, by raising questions of procedure and confusing the conversations with arguments regarding the preliminary character of the points which their country was especially urging, they avoided giving an answer to the question whether they agreed to the insertion in the treaty of peace of specific clauses making effective provision for legal arbitration, in regard to which they had proposed a formal undertaking in principle.

But, even if the Commission had received the promised material, together with an equally voluminous set of documents from the Bolivian Government, it would not have felt justified in using such material as the sole basis for conclusions on the question of responsibility for the war; it would have expected to be able to hear the necessary witnesses and to consult the official records—a task which would have taken up a great part of the time it spent in America.

It would, no doubt, always have been possible to establish, in a general way, a certain common responsibility: the responsibility of two countries which have gone to war over a dispute embittered by the passage of time, instead of submitting the question in a genuine desire for settlement to the League of Nations, of which they are both members, and thus acting in the spirit of the Covenant by which they are bound. A war may, to the country which expects to win, appear to promise better results than any that can be obtained by peaceful means; but any member of the League which contemplates a settlement by resort to force, in preference to the pacific forms of procedure open to it under the Covenant, assumes a responsibility which leaves no room for doubt. The indignation felt by one party for the other is no test of guilt. In this dispute, each party claims ownership of the Chaco, and therefore maintains that it is waging a defensive war in its own territory. How is the aggressor to be determined in such a conflict? No international frontier has been crossed by foreign troops, since the Chaco question will only be settled by a delimitation of this disputed frontier. According to Paraguay, the Bolivian troops infringed the *status quo*, but the historical survey given in a previous chapter shows that the question of the *status quo* was far from simple. There is no doubt whatever that, at the Buenos Aires Conference, Bolivia refused to consent to a settlement of that question by arbitration. It would appear, however, that no impartial judge acquainted with the documents could maintain that either of the parties must bear the entire responsibility for the failure of the Buenos Aires Conferences.

Who prevented the settlement of the Chaco question before, during and after the Buenos Aires Conferences? Bolivia considers that it was Paraguay, since the latter's geographical position enabled her gradually to extend

her *de facto* occupation, with the result that it was to her advantage to postpone a final settlement. Paraguay believes that it was Bolivia, as the latter was actuated by a spirit of war and conquest, was seeking access to the sea—or what she alleged to be access to the sea—and was anxious to deprive a weaker neighbor of territory which the latter had colonized.

The Commission has a clear idea of what an enquiry into the question of responsibility for the war should be—an opinion proceeding from the Council's conception of the object to be pursued in this conflict—namely, that hostilities must, first and foremost, be brought to a close. If, therefore, the question of responsibility were to come under consideration, investigation would have to be made, not merely into the question of responsibility for the outbreak of war, but also—as the Paraguayan Government maintained in the telegram transmitted by its representative on the Council on June 6, 1933—into the question of responsibility for its continuance.

As long as hostilities are in progress and honorable and just peace proposals fail to secure consideration, it would be a tragic error to go to the trouble of sifting the records or collecting evidence for the sole purpose of ascertaining in what circumstances the attack on a patrol in the heart of the bush led, two years ago, to the initial incident, or by what person in authority the first irreparable words of war were then pronounced.

Any enquiry into responsibility for this conflict will have to be complete; it must embrace both the past and the present, the policy of those who could not or would not spare their country a senseless war, and also of those who, when once war had broken out, prevented the restoration of peace.

The Commission has thought it appropriate to state its views on this question. Its position, which could not be clearer, may be summarized as follows:

(1) No enquiry into the question of responsibility for the conflict as long as there is any possibility of a peaceful settlement. An enquiry would only be in place if all such possibilities had vanished.

(2) The enquiry should be as thorough and comprehensive as possible. The character of the conflict being what it is, the enquiry should deal with the question of responsibility, not merely for the outbreak of war, but also for its continuance.

Chapter V

SURVEY OF THE MILITARY SITUATION

Several references have been made in this report to military questions and their influence on the change in the parties' attitude and on the development of the negotiations, which, apart from a brief armistice, were conducted during a period of active operations.

Before the beginning of that period the light troops of the two parties who were occupying the Chaco were stationed in small posts, most of which

had no military value. The same organizations still remain in that part of the Chaco which is outside the zone of operations. In that zone, on the other hand, although the designation "post" is still used, it now means a whole system, and often a very extensive one, of trenches, which has been constructed around the old posts, and includes headquarters, medical units, stores, and shelters for the reserves.

The armies engaged are using up-to-date material—aëroplanes, armored cars, flame-projectors, quick-firing guns, machine-guns and automatic rifles; the automatic weapons are available in great quantities, but the other arms are few. The arms and material of every kind are not manufactured locally, but are supplied to the belligerents by American and European countries.

The Bolivian army, which was originally larger than the Paraguayan army, consists for the most part of Indian soldiers under trained officers. It has successively been commanded by native Bolivian generals, by a naturalized Bolivian commander, and then again by native Bolivians. Although it had more arms and material than its adversary, the distance from its bases of operations, quite apart from other considerations, limited this army's advance in the Chaco to the neighborhood of longitude 60°.

The Paraguayan army, which was very small and had very few arms and little material, was formed during the period of operations by the enlistment of brave but untrained volunteers, who improved day by day under the direction of native-born officers, who also received their training on the battlefield. Thanks to its endurance and gallantry, and to its officers, it succeeded at the outset in holding up the Bolivian army.

Since then, the military situation has steadily turned in favor of the Paraguayan army. In November 1933, however, the first successful attacks carried out by the Paraguayans did not as yet reveal the improvement that had been made, and the two armies remained on the field, immobilized in trenches which faced each other at a short distance.

In December, the Paraguayan command decided to take the offensive, and won important successes in the first few days.

The difficulties of evacuation and restoring order on the battlefield were among the reasons advanced by President Ayala for proposing an armistice.[32]

The Bolivian army had lost many prisoners and much material. For these reasons, it was obliged to retire before the Paraguayan advance which followed the resumption of hostilities. As has been pointed out in this report, the further the Paraguayan army advanced in the Chaco, the more did Paraguayan opinion harden on its original demands, to which others were soon added.

At present the two armies are again face to face before Ballivian, where the Paraguayans are held up before the Bolivian resistance. Although there

[32] The text of the telegram from the President of Paraguay is quoted in Chapter III.

is as yet nothing to suggest that the Bolivians will retire, there is also no reason to believe that the Paraguayan army is not capable of pursuing its offensive.

At the same time, it would seem that notwithstanding its improved means of transport, the Paraguayan army, as it leaves its bases further in the rear, is encountering, in the course of its advance, considerable difficulties due chiefly to tracks that are often impassable; whereas the Bolivian army increases its possibilities as it falls back towards its bases.

Failing any development particularly favorable to Paraguay, it may be supposed that the equilibrium which was reached in October 1933, 200 kilometres to the west of the River Paraguay, will be reached afresh at a greater distance from the river, and that the two armies will again be immobilized in fortified systems.

Chapter VI

THE COMMISSION'S CONCLUSIONS

The publication of the draft treaty of peace prepared by the Commission, the text of which has been reproduced earlier in this report, brought home to American public opinion that the Chaco conflict, the persistence of which had gradually created a sense of discouragement, as if it had been an irremediable catastrophe, could be settled by conciliation and law. The replies from the two Governments have shown that the draft represents an equitable proposal, carefully devised in all its parts for the purpose of finding the exact point at which, with a little will for peace, diametrically opposite theses and aspirations could be made to meet, and that any additional concessions to the demands of either party could only have increased the divergence between them.

But the Commission was to be offered one last opportunity of confirming its conviction. In her reply of March 6, after having, like Paraguay, rejected the draft treaty, Bolivia suggested direct negotiations between the two delegations "under the Commission's auspices." Although this was a procedure that had already been tried without success, and although Paraguay, whose military situation continued to be favorable, only agreed to this resumption of conversations in a sceptical spirit, the Commission again convened the two delegations. It was a memorable meeting in its way, for it became clear, first, that the parties, if left to themselves, would not abandon conflicting standpoints which each regarded as fundamental; and, secondly, that, if the Commission had listened to certain suggestions and attempted to depart from the guiding ideas of its draft treaty in order to secure the agreement of one of the parties, it might have jeopardized its authority and impaired a formula which it still looks upon as affording the best solution.

As, in the present situation, it does not think it expedient to enquire into the responsibility for the war, so also the Commission prefers not to attempt

to determine who is responsible for the failure of the efforts which, after the neutrals at Washington, and after the adjacent States, it has had the honor of making to discharge the mandate entrusted to it by the Council.

The essential thing is to make peace. When submitting this report, which is intended to assist the Council in fulfilling its mission under the Covenant, and in order to put an end to this senseless war, the Commission feels bound to explain as clearly as possible to the Council what it regards as the main obstacles to the establishment of a peace which would be to the advantage of all parties, and which is ardently and unanimously called for by the other nations of America and desired by public opinion throughout the world.

One of the main obstacles to the settlement of the conflict, in the atmosphere created by this prolonged quarrel, and by all the mutual accusations that have still further envenomed that atmosphere, is the fact that, as long as hostilities continue, each party hopes that the military situation will be more favorable to him tomorrow than it is today. Paraguay says she is convinced that the total defeat of Bolivia is only a question of time; in her opinion, unless the peacemakers completely espouse her view, they are playing the other party's game by raising false hopes. As for Bolivia, she seems to think that Paraguay, realizing that she has placed exaggerated confidence in her military strength, will accept tomorrow, in respect of the whole territory of the Chaco, the legal arbitration which, even before her December victory, she insisted on postponing until the period which would follow the final cessation of hostilities.

It is plainly difficult to negotiate a peace according to law when the calculations of general staffs, and the exacerbation of national *amour propre*, are thus brought into the examination of the possibilities of a legal settlement. So long as the preference for one form or another of pacific settlement depends on the number of miles that one army has advanced or retired, any negotiation is liable to be suspended or broken off according as operations may develop.

To speculate on the possibility of a solution found upon the battlefield is not merely to adopt an attitude incompatible with the spirit of the League of Nations, but also, in this particular case, looked at from the most narrowly realistic angle, to attempt an adventure replete with dangers. The present hostilities may cease because one of the parties is exhausted—but they may be resumed later on. As the Bolivian army retires, it comes nearer to its bases; as the Paraguayan army precipitates or pursues that retreat, it goes further from its bases, and has to occupy an increasingly large territory, whereby the situation becomes the converse of that which developed at the beginning of operations. Unless the Paraguayan hypothesis proves true and the two countries have come to that last quarter of an hour which, in a war, decides the final victory or defeat, Paraguay's task—heroic though her people may be—may become superhuman. The holding of the Chaco, far from enriching the country, may exhaust it.

It would not be the first instance in which a small nation has sought to extend its sway over a vast territory and has succumbed beneath the weight of its victory, when its adversary refused to admit that that victory was final, and was determined, even if it temporarily accepted defeat, to resume the struggle when it had reconstituted its forces. From the outset of its investigations, therefore, the Commission has had to give serious consideration to the possibility that the conflict between the nation of the lofty plateaux and the nation of the plain may have no early military issue. It has also observed that, although neither country produces any arms or any considerable amount of war material both continue to obtain arms and war material without any difficulty.

The conflict may find no definite military issue, but it has already produced one result—suffering and impoverishment for both peoples, which cannot but increase as the war goes on.

The struggle in the Chaco is a singularly pitiless and horrible one. The soldiers are fighting in the bush, far from centres of population, and in an exceedingly trying climate. The sick and wounded frequently receive inadequate attention, owing to the difficulty of improvising, with limited resources, a medical service proportionate to large effectives. Moreover, behind the lines, while the struggle goes on, both countries are growing poorer, and their future seems darker and darker. The young men are at the front, the universities are closed, and when it is remembered how greatly the two nations stand in need of all the forces represented by this younger generation—part of which has now been wiped out—to develop, to improve living conditions, popular education and public health, the Chaco war represents a veritable catastrophe to the advance of civilization in that part of America.

An arbitral settlement leading to the permanent fixing of the frontier between the two countries would enable them to exploit in peace their national territories, which, whatever might be their extent after the arbitration, would still be immense in proportion to their population. Such a settlement would be better than a temporary solution, even for the country that was victorious.

The war, on the other hand, is, and will continue to be, the catastrophe that we have described, and, as with all catastrophes, it is impossible to predict that its effects will remain localized. The soldiers coming home from the Chaco have introduced malaria into centres hitherto immune; other and more serious diseases may spread beyond the frontiers of the two countries; and fears have been entertained, and may continue to be entertained, lest, despite the precautions taken by the neighboring States, the war itself spreads.

To arrest the development of this catastrophe, the Commission considers that combined action by all the forces of peace, working together in harmony, is needed. It is essential that the system of interventions from many quar-

ters should come to an end—that there should no longer be a doorway through which the parties can leave one procedure for another and experiment with a fresh formula when the negotiations take a turn unsatisfactory to them. If the parties can feel that, even after the failure of the various efforts that have been made during the last two years, the League of Nations is not the final authority, but that they can still contemplate the possibility of intervention from some other quarter, the cause of peace will be gravely jeopardized.

Every life sacrificed in the Chaco demands, therefore, that the procedure of interventions from many quarters—which, though undertaken with the best intentions, being insufficiently coördinated, fail to achieve the desired end—should be discontinued.

The Commission ventures to give frank expression to the opinion it has formed after making an impartial and conscientious enquiry into the development of this conflict upon its actual scene.

It considers that it has suggested an honorable solution which the two parties should examine afresh, in order to ascertain, not whether it will immediately satisfy all their demands, but whether, by enabling them to lay their essential claims before the highest international jurisdiction and thus to obtain a final settlement of their dispute, it does to a large extent answer to their real interests, of which one of the most important is undoubtedly the restoration of peace and a good understanding.

Regarded from this angle, it would seem that the Commission's formula ought to enjoy the support of all the nations that desire justice and peace to prevail, and especially of the American nations. Those nations are anxious for a pacific settlement of the conflict. They gave explicit expression to their sentiments in the declaration of August 3, 1932, and in the resolutions that they unanimously adopted in December 1933 at the Seventh International Conference of American States.

If it is borne in mind, moreover, that the spirit in forming these resolutions cannot be allowed to die; that that spirit is identical with that of the Covenant; that the American nations which adopted those resolutions unanimously are for the most part members of the League; that three of them—the Argentine, Mexico and Panama—as members of the Council, can bear witness to the desire of the Seventh International Conference of American States; that that desire was specially stressed by the United States of America, whose delegate, Mr. Cordell Hull, when moving his draft resolution of December 26, expressed himself with singular eloquence and force; if it is also borne in mind that among the States represented at the Montevideo Conference was Brazil, which is one of the adjacent countries, it is natural to feel that, in the coördinated action which is clearly necessary, the American countries can play a particularly important part.

The neighboring countries more especially, if the two belligerents refused to accept an honorable and just settlement, could exercise a strict control

over transit traffic as a complement to the control that other nations could exercise over certain exports.

If, therefore, real support is given in America to such resolutions as the Council may adopt, it may have a decisive influence.

The Commission hopes that concomitant action by all these forces making for peace will render the continuance of an inhuman and criminal war impossible.

(*Signed*) ALVAREZ DEL VAYO
ALDROVANDI
H. FREYDENBERG
A. B. ROBERTSON
G. RAÚL RIVERA F.

ANNEX 1

COMMUNIQUÉ ISSUED BY THE COMMISSION TO THE PRESS, AT MONTEVIDEO ON NOVEMBER 3, 1933

[*Translation from the Spanish*]

On meeting for the first time, the Commission of the League of Nations wishes, first of all, to thank the Uruguayan Government and nation for its kind hospitality and for the facilities which have been afforded to it to enable its labors to proceed, according to its intentions, in an atmosphere of complete independence.

Having been appointed by the Council of the League of Nations for so lofty a mission as the restoration of peace between two sister countries of America, it is obvious that each of the members of the Commission, and the latter as a whole, are embarking upon their labors with a full realization of their great responsibility, and a firm determination to spare no pains in carrying out the task entrusted to them.

Their status as direct delegates of the League of Nations places them in a peculiar situation of serenity and impartiality. In the eyes of the Commission, the two belligerent countries are members of the League, with equal rights to be heard, and are entitled to expect from it a constant endeavor to grasp their anxieties and their sacrifices. The high spirit of patriotism which animates both countries arouses the Commission's profound esteem and respect. Both peoples are looked upon by the Commission, not as cold legal entities, but as human agglomerations which have undergone a severe trial of pain and blood.

The Commission has, of course, taken care to study in the most scrupulous manner the abundant documentation regarding the antecedents of the question and the events that have occurred, supplied to it by the League of Nations and supplemented when it touched at Rio de Janeiro by the documents regarding the proceedings of the A.B.C.P. in August and September last, which were kindly furnished by the Brazilian Foreign Minister.

It is the Commission's intention to enlarge its knowledge in the near future by visiting the two capitals and any other places to which it may need to go to elucidate particular points. Above all, it will endeavor, in direct contact and coöperation with the Governments of Bolivia and Paraguay, to find a solution for the dispute. It is the Commission's unanimous view that peace

must be restored as speedily as possible in the form of a final settlement which will guarantee its permanence.

In following this line of action, the Commission is confident that it can rely on the cooperation and good will of the two countries in opposition. But it also needs the cordial sympathies of the other sister nations. For this reason, it found the welcome given to it by M. de Mello Franco, the Brazilian Foreign Minister, most encouraging. The gratifying fact that the other States which are neighbors of the parties to the dispute are now all members of the League is an added stimulus to the Commission at the moment when it is entering upon its labors.

ANNEX 2

REPORT BY MAJOR RIVERA FLANDES ON HIS VISIT TO PUERTO SUAREZ

ASUNCIÓN, *November 30, 1933*

ITINERARY

I left Bahía Negra by air for Corumbá (Brazil) on November 24. From Corumbá I proceeded by motor-car to Puerto Suarez, where I met the Bolivian General Mariaca Pando. He was not expecting me, as he had not then received any instructions from his Government regarding my visit. Nevertheless, he showed himself quite ready to furnish me, very courteously, with information of every kind. After passing the whole day at Puerto Suarez, I returned in the evening to Corumbá. The next morning I resumed my journey by air to Puerto Casada, where I rejoined the other members of the Commission.

CACERES LAGOON

The Caceres Lagoon is situated near the frontier-line between Bolivia and Brazil, but wholly on the Bolivian side. In this lagoon, which communicates with the River Paraguay through the Tamengo Canal to the south and through the stream of Tuyuyu to the northeast, the level of the water is subject to wide variations due to variations in the level of the River Paraguay. Navigation within the lagoon, and even in the canal giving access to it, is affected by these variations. Though navigation is quite impossible on the lagoon even for small boats during low water, one can nevertheless count during the same period on a depth, in the Tamengo Canal, varying from 1.5 metres on the lagoon side to 3.5 metres near the point where the canal enters the River Paraguay.

Further, the Caceres Lagoon is fed by three small streams, only one of which constantly supplies it with fresh water. This is the stream called Tres Bocas, which enters the lagoon in its northwest part. But for this stream, which supplies it with water during the period of drought, the lagoon would perhaps be even more shallow. Whereas a great part of the lagoon is dry at low water, the waters of the River Paraguay enter it during the period of flood. The depth at the foot of what it is agreed to call "Puerto Suarez" may then attain 5.60 metres. As the water thus entering the lagoon carries a great deal of eroded matter, deposits are formed, and the basin would eventually be silted up if steps were not taken to prevent this. Dredging has to be constantly carried on in order to maintain a depth sufficient for navigation.

The floods begin as a rule in April and continue until September. During the whole of this period the ground round the lagoon is completely under

water. The floods are, however, prevented from spreading by a number of small hills on the western shore of the lagoon.

TAMENGO CANAL

The Tamengo Canal affords a means of communication between the Caceres Lagoon and the River Paraguay. It has a length of about 14 kilometres and its width varies from 30 to 70 metres. Its depth on the lagoon side is about 1.5 metre. Near its point of entry into the River Paraguay it has a depth of 3.5 metres.

It is said that the bed of the canal is of stone and difficult to dredge. From observation on the spot, I ascertained that there is a great deal of mud which has not been dredged for a long time.

PUERTO SUAREZ

Puerto Suarez cannot be regarded as a port. It is a small village situated at the end of the Caceres Lagoon, and it has on the shore of the lagoon only a wooden landing-stage some 30 metres long and 3.5 metres wide. On this landing-stage a rail track has been laid with a gauge of 60 cm. It would appear not to have been used for a long time, as the flooring and piles are partly destroyed.

Puerto Suarez has very little trade and the area in which it is situated is at present poor. Owing to the absence of crops, many articles of consumption have to be brought from the interior along the track from Puerto Suarez to Santa Cruz de la Sierra. A number of products could certainly be obtained on the spot, however, and the region must undoubtedly be regarded as possessing great potential wealth.

ROAD FROM PUERTO SUAREZ TO CORUMBÁ

A very poor road at present connects Puerto Suarez with Corumbá. During the rains it becomes impassable, but it could be improved at small cost. Once improved, it could, I think, be used throughout the year. On this road there are two places where small bridges would have to be built, but they would not exceed about 10 metres in length. It would also be necessary to make provision for draining off the rain-water.

POSSIBILITIES OF ESTABLISHING A PORT

The site of Puerto Suarez is not a suitable one on account of the shallow draught at low water and the height of the water during flood. It would therefore be necessary to look for a place on the shore of the lagoon with a better situation, which would offer greater advantages without necessitating heavy expenditure.

The place called Tamarinero might be chosen, provided it were agreed to undertake certain improvements. Works of this kind will, in any case, be necessary if there is to be a practicable port, for it is absolutely impossible to find a natural harbor.

There was formerly a factory for the salting of meat at Tamarinero, the meat being sent from the factory by boats along the River Paraguay. The failure of this establishment was due, not to difficulties of navigation, but to the fact that there was a shortage of cattle so that it was not possible to carry out the plan originally contemplated, which comprised the slaughter of cattle and constant work day and night. The station has now been abandoned altogether. The trade in rubber, which was once carried on via the Caceres Lagoon, has also disappeared as a result of the very high cost of

transport to Buenos Aires. The small volume of trade, and consequently the small transport traffic, were the direct cause of the ill success of the British shipping line whose vessels used to ply between Puerto Suarez and Buenos Aires.

At Tamarinero, which is situated at the end of the Tamengo Canal within the lagoon, the depth of water is at present only 1.5 metre; but there is on the canal itself, quite near the Brazilian frontier, a second spot which, in my opinion, would be preferable, as the depth of water there is 3 metres. Moreover, the small hills on the bank afford protection against floods. Limestone and building timber are available on the spot, and quebracho is not unknown there.

Navigation on the entire length of the Tamengo Canal would seem to be entirely free, under the treaties concluded between Brazil and Bolivia.

The proximity of the River Paraguay would almost certainly prove economically advantageous to this last site. Large scale works could easily be planned, to be carried out step by step with the natural development of the region.

Conclusions

Puerto Suarez is not a port from the engineering point of view, and its situation is unsuitable for a port.

There are one or two sites along the shore of the Caceres Lagoon better adapted for the purpose. At the same time, a site should not be chosen before the conditions obtaining in the region are fully examined; otherwise, it would be impossible to foresee all the factors likely to influence the development of the port.

Annex 3

Reply from the Plenipotentiaries of Paraguay concerning the Commission's Draft Treaty

Buenos Aires, *March 3, 1934*

Our Government has examined, with all the attention and interest it merits, the draft prepared by the Commission of which you are Chairman, and considers it its duty to make the following observations, and also to set forth the general bases on which, in its opinion, the Treaty of Peace and Arbitration between Paraguay and Bolivia should be drawn up.

I

The Commission's draft comprises provisions relating to the cessation of hostilities, the withdrawal of troops, policing, demobilization, temporary reduction in the strength of the armies, prohibition for a certain time to acquire arms, and determination of the frontiers in dispute by arbitration.

The draft also provides for the convening of an economic conference of the neighboring Powers after the arbitral award has been rendered.

II

The cessation of hostilities and the execution of the measures of security proposed in the draft are subject to ratification in accordance with the laws of both countries. It is provided that hostilities shall cease twenty-four hours after the entry into force of the treaty. As, however, the coming into operation of the latter would depend on ratification, the war would go on during

the whole of the period—the length of which cannot be foreseen—that would elapse between the signature of the treaty and its sanctioning by the Parliaments of both countries.

On the other hand, our Government is in favor of the immediate cessation of hostilities, subject to an adequate system of security, with due regard for the position of the belligerent forces in the field.

The decision to put an end to the fighting, and the measures of security, could be agreed upon and carried out in a short space of time, by which means the war would be shortened and peace immediately restored.

To maintain peace or restore it as soon as possible is the chief aim of the League of Nations.

On the contrary, the procedure recommended by the Commission would lead to the following result: the Congresses of both countries would discuss the Treaty of Peace and Arbitration at length, as they are perfectly entitled to do, since its nature and importance are such that it cannot be approved precipitately. The exceptional and unprecedented case would then arise of a peace treaty's being discussed or examined by Parliament while the armies were fighting in the field. In the meantime, the course of the military operations would be bound to affect the proceedings.

For these reasons, our Government would urge that the cessation of hostilities should be agreed upon beforehand and that a system of security should be established.

III

The Commission proposes that the Paraguayan troops should withdraw to the banks of the River Paraguay and the Bolivian troops to Villa Montes and Roboré.

This proposal takes no account of the present position of the belligerent troops in the theatre of war. If it were accepted, the Paraguayan troops would have to withdraw to a much greater distance from the strategic frontiers than that implicitly indicated in the draft for the withdrawal of the Bolivian forces. While the former would be obliged to retire for about 500 kilometres—as the crow flies—thus retracing their steps over this considerable amount of ground which they conquered with their blood, the latter would withdraw for no more than some 100 kilometres.

The invading troops were driven back by the Paraguayan army nearly to the edge of the Chaco, and this fact cannot be overlooked. No mere abstraction can brush aside the reality of the war, and it is not right, therefore, to close one's eyes to its results, even though these may not yet be considered final.

There is another reason: according to the draft under examination, Bolivia waives her reservations concerning President Hayes's award. This proposal includes the recognition of Paraguay's ownership—that is to say, her full sovereignty—over the said territory. If this is admitted, all its consequences must also be admitted. Hence the provisions in the draft concerning the withdrawal of the Paraguayan troops, at any rate as regards the zone assigned to Paraguay by President Hayes, are incompatible with that recognition, since sovereignty includes the right to place, distribute, or remove troops within the territorial area over which it extends.

IV

The observations regarding the army likewise apply to the police.

Moreover, the police system advocated in the draft is likely to give rise to

further incidents of a similar nature to those which occurred owing to the vicinity of the posts of the opposing forces.

It is not advisable to afford any opportunity for protests and accusations of every description, such as would be given if the policing of the Chaco were divided between the two countries. Paraguay should be solely responsible for policing the Chaco, since she has enormous interests to protect, whereas Bolivia has no establishments of any kind except for the posts and the small industries that have grown up under the shelter of the military garrisons, on which they live.

Lastly, it is not to be expected that the mere authority of the Permanent Court of International Justice at The Hague would be sufficient to prevent the clashes to which the proposed distribution would give rise.

V

Article 6 of the draft provides that the dispute existing between the two countries shall be settled by the Permanent Court of International Justice on the following basis:

> Bolivia maintaining, on the one hand, that the frontier between the Republics of Bolivia and Paraguay is constituted by the river of that name and that her rights over the Chaco Boreal extend as far as the confluence of the Rivers Pilcomayo and Paraguay; on the other hand, Paraguay maintaining that her rights west of the River Paraguay extend northwards as far as the frontiers between the former province of Paraguay and the former military government of Chiquitos, westwards as far as the frontiers between that province and the entities or provinces of Upper Peru, and that the court should determine where those frontiers lie.

The Commission's draft adds:

> Nevertheless, in a conciliatory spirit and provided always that the undermentioned concessions cannot in any way impair the contentions or legal claims which either party may submit to the Permanent Court of International Justice, or, should the present treaty not come into force, be adduced later as a precedent having any legal or moral force whatever;
>
> Bolivia, of the one part, waives her reservations concerning the assignment to Paraguay under President Hayes's award of the territory between the River Verde and the main channel of the Pilcomayo;
>
> Paraguay, of the other part, waives her reservations concerning the fixing of a frontier between Bolivia and Brazil under the Treaty of Petropolis and accordingly declares that she claims as her frontiers: to the north, the Chochi Mountains and the Rivers Aguas Calientes, Otuquis and Negro; to the west, the River Parapiti and, to the south, the River Pilcomayo.

These are the stipulations of the draft which relate to arbitration. They provide:

1. That Bolivia is authorized to maintain that her frontier reaches as far as the confluence of the Rivers Pilcomayo and Paraguay, which of course conflicts with the provisions of the draft relating to the withdrawal of the Bolivian reservations to the Hayes award.

The territory awarded by the President of the United States of America extends as far as the confluence of those rivers.

The foregoing observation is confirmed by the doubts raised by the following phrase in the draft:

> Provided always that the undermentioned concessions cannot in any way impair the contentions or legal claims which either party may submit to the Permanent Court of International Justice. . . .

2. That in a conciliatory spirit Paraguay must waive her reservations under the Treaty of Petropolis, although Bolivia is not required to waive her

reservations under the treaties concluded by Paraguay with the Argentine Republic and Brazil.

In the above-mentioned treaties, those countries recognize the rights of Paraguay over the Chaco Boreal as far as Bahía Negra, while it should also be observed that the Treaty of Petropolis completely ignored the alleged rights of Bolivia south of Bahía Negra. Neither was it recognized in the boundary treaty between the Argentine Republic and Bolivia that the latter had any right to the left bank of the Pilcomayo.

In the Commission's draft, the clause relating to the withdrawal of the reservations to the Treaty of Petropolis appears to be regarded as compensation for the withdrawal of the Bolivian reservations under the Hayes award.

In our opinion, this kind of compensation is not feasible.

It could only be justified if the two legal situations contemplated in the draft, instead of being different, as is actually the case, were the same or similar. Only then could one thing be set off against another.

Bolivia cannot adduce, as can Paraguay, any arbitral award covering any part of the Chaco.

Consequently, the elements of appreciation taken into account in the draft are not equivalent, but differ in nature, extent and importance.

If the treaty between Bolivia and Brazil stands in the way of the recognition of Paraguay's rights, it cannot be denied that, under the treaties between our country, the Argentine and Brazil, Bolivia's claims to the Chaco as far as Bahía Negra would be excluded.

3. That, although the draft describes the dispute between the two countries as a boundary question (Paraguay contention), it is actually regarded and dealt with therein as a territorial question (Bolivian contention), since it provides that the whole area of the Chaco, excluding possibly the Hayes zone and the portion included in the Treaty of Petropolis, shall be submitted to arbitration.

As we have said, the draft regards this arbitration as covering a territorial question, the area of the territory being fixed beforehand and practically made the actual substance of the dispute.

The Chaco dispute is not a territorial, but a boundary, question—that is to say, simply a matter of delimitation

Like the rest of the Chaco, the coast has never been under Paraguay's jurisdiction, neither under the colonial régime nor since her political emancipation.

The whole of this coast since the date on which Paraguay acquired her independence was finally placed under her sovereignty.

Bolivia has never owned or possessed any part of this littoral. Throughout its course, as far as Bahía Negra, there are only Paraguayan interests and settlements, which it is the primary duty of our Government to protect.

Moreover, Paraguay's sovereignty over this littoral is essential to her present and future security. This consideration constitutes an eminently political aspect of the problem, which precludes any possibility of arbitration in regard to it, since arbitration applies solely to the definition of legal questions.

Again, the two situations must be contrasted. Everything that exists in the Chaco is the work of the civilizing influence of Paraguay. Under the jurisdiction and protection of our country, more than forty million dollars have been invested in that territory The largest industrial establishments in the Republic, big cattle ranches, agricultural settlements, and more than 500 kilometres of railway track are to be found there. The territory is inhabited by some 50,000 Paraguayan citizens.

There is nothing in the Chaco that can be regarded as the result of Bolivian efforts, apart from the hutments in which their troops were housed and which they were obliged to abandon.

The boundaries in dispute lie between the western region of Paraguay and the neighboring departments of Bolivia. They should be determined in accordance with the general principles of international law and the precedents of the colonial era.

That is the question that should be submitted to arbitration.

It should also be recognized that arbitration is a means of preventing war. Paraguay offered it freely whenever the opportunity arose. This just conduct, inspired by a desire for harmony, did not meet with any response from Bolivia. War broke out, with the bloody sacrifices and sufferings of every kind that it involves. Now that it has happened and gone so far as it has, it is not surprising that Paraguay has to some extent changed her views.

VI

The Commission, doubtless in a liberal spirit of conciliation, has omitted from its draft a point of capital importance. This is the enquiry into the responsibility for the war, which must serve as a basis for the establishment of the requisite sanctions.

The draft thus makes no reference to the idea of responsibility, and our country quite rightly demands that the country responsible for the war be named. In deference to justice, on which the international order is based, an action that has caused immense and terrible material and moral harm cannot be left unpunished, for that would afford an incentive to further wars. Moreover, this is demanded by the public conscience of the American continent and the whole civilized world. A warlike conflict cannot be brought to an end without the responsibility being established, if only for the sake of international morality.

Inasmuch as both countries are members of the League of Nations and bound by the provisions of the Covenant, an investigation into the responsibility for the war may be said to be obligatory. It is also demanded by the explicit terms of reference that the Commission has received from the League.

Paraguay and Bolivia have acceded to the Briand-Kellogg Pact, which condemns war as an instrument of national policy.

It is in our country's interest to allow no shadow of doubt to remain as to the correctness of its conduct and its loyalty to the undertakings that bear its signature.

VII

The Economic Conference mentioned in the draft we are examining would be of greater utility if it met immediately upon the termination of hostilities and before the opening of the arbitration proceedings.

VIII

In consequence of the foregoing observations, the Paraguayan Government requests you to ask the Commission to consider the following general bases which it has instructed us to submit:

1. Immediate cessation of hostilities with guarantees of security.

2. The position of the main bodies of the opposing forces to be, in the military sense, equidistant from the lines of separation of the said forces at the moment of the agreement for cessation of hostilities.

3. Only one country, Paraguay, to police the Chaco territory; a declaration may be made that the exercise of this right cannot in itself be invoked before arbitrators.

4. The subject of arbitration to be the determination of the boundaries which, in the western hinterland of the River Paraguay and in the non-arbitrated regions, separated the province of Paraguay from the Military Governorship of Chiquitos and the provinces of Upper Peru.

5. A conference of the adjacent countries to meet after peace has been arranged, and before the beginning of the arbitration proceedings.

6. The treaty to authorize the League Commission to enquire into the responsibility for the origin of the war, and report, in order that the League, through its competent organs, may decide upon suitable penalties.

We should like to point out that the observations formulated in this reply do not mean that we in any way underestimate the admirable efforts that the Commission is making to restore peace.

(*Signed*) G. ZUBIZARRETA
VICENTE RIVAROLA

ANNEX 1

REPLY OF THE BOLIVIAN GOVERNMENT CONCERNING THE COMMISSION'S DRAFT TREATY, TRANSMITTED BY THE BOLIVIAN PLENIPOTENTIARY ON MARCH 6, 1934

[*Translation from the Spanish*]

The Bolivian Government has considered with the attention it merits the proposal formulated by the League of Nations Commission for putting an end to the conflict between Bolivia and Paraguay, and has arrived at the following conclusions:

1. The League Commission proposed to the Bolivian Government that recourse should be had to legal arbitration, which would be entrusted to the Permanent Court of International Justice at The Hague, to delimit the sovereignty of the two contending countries over the territory included in the maximum claims so far advanced by the belligerents, in accordance with the principles proclaimed by the American nations in their declaration of August 3, 1932. The Bolivian Government accepted this proposal.

2. The League Commission now proposes that part of the disputed territory be excluded, to Paraguay's profit, without any real compensation for Bolivia. The Government of this country can find no legal ground on which this unilateral exclusion can be justified. This notwithstanding, it is prepared to consider and accept that exclusion, if it is counterbalanced by an equivalent exclusion in favor of Bolivia on the River Paraguay.

3. The Bolivian Government is of opinion that, in order to put an end to the war and prevent its recurrence, the essential thing is to settle the substantive question as quickly as possible. Accordingly, it considers that the stipulations relating to legal arbitration should be specific and far-seeing, so that the arbitration may be carried out and concluded within a certain reasonable time, even though the parties, or one of them, seek to delay it. The Bolivian Government desires a final peace which will not leave the causes of conflict latent. Consequently, this Government attaches no great importance to such transitory measures of security as might prevail during the period between the cessation of hostilities and the arbitral award. These measures, moreover, must be founded on equity and must pay due considera-

tion to the sovereignty of the two contending parties. It is to be anticipated that, if provision is made for a satisfactory settlement of the conflict, the transitory measures of security will easily be settled.

4. In view of the difficulty of reaching agreement on so complicated a subject as that under discussion, the Bolivian Government ventures to suggest that it would be expedient to open conferences between the ministers plenipotentiary of the two countries, under the auspices of the League Commission.

(*Signed*) RAFAEL DE UGARTE,
Minister of Foreign Affairs

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